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THE WRITINGS

OF

JAMES MADISON

VOLUME III.

1787

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October, 1902

THE WRITINGS

OF

JAMES MADISON

COMPRISING HIS PUBLIC PAPERS AND HIS PRIVATE CORRESPONDENCE, INCLUDING NUMEROUS LETTERS AND DOCUMENTS NOW FOR THE FIRST TIME PRINTED

EDITED BY

GAILLARD HUNT

VOLUME III.

1787

THE JOURNAL OF THE CONSTITUTIONAL CONVENTION

I.

G. P. PUTNAM'S SONS

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THE JOURNALS OF THE CONSTITUTIONAL CONVENTION.

James Madison's contemporaries generally conceded that he was the leading statesman in the convention which framed the Constitution of the United States; but in addition to this he kept a record of the proceedings of the convention which outranks in importance all the other writings of the founders of the American Republic. He is thus identified, as no other man is, with the making of the Constitution and the correct interpretation of the intentions of the makers. His is the only continuous record of the proceedings of the convention. He took a seat immediately in front of the presiding officer, facing the members, and took down every speech or motion as it was made, using abbreviations of his own and immediately afterwards transcribing his notes when he returned to his lodgings. A few motions only escaped him and of important speeches he omitted none. The proceedings were ordered to be kept secret, but his self-imposed task of reporter had the unofficial sanction of the convention. Alexander Hamilton corrected slightly Madison's report of his great speech and handed him his plan of government to copy. The same thing was done with

Benjamin Franklin's speeches, which were written out by Franklin and read by his colleague Wilson, the fatigue of delivery being too great for the aged Franklin, and Madison also copied the Patterson plan. Edmund Randolph wrote out for him his opening speech from his notes two years after the convention adjourned.[1]

In the years after the convention Madison made a few alterations and additions in his journal, with the result that in parts there is much interlineation and erasure, but after patient study the meaning is always perfectly clear. Three different styles of Madison's own penmanship at different periods of his life appear in the journal, one being that of his old age within five years of his death. In this hand appears the following note at the end of the journal: "The few alterations and corrections made in the debates which are not in my handwriting were dictated by me and made in my presence by John C. Payne."[2] The rare occasions where Payne's penmanship is distinguishable are indicated in the notes to this edition.

The importance attached by Madison to his record is shown by the terms of his will, dated April 15, 1835, fourteen months before his death:

"I give all my personal estate ornamental as well as useful, except as herein after otherwise given, to my dear Wife; and I also give to her all my manuscript papers, having entire confidence in her dis-

[1] Madison to Randolph, April 21, 1789.
[2] Mrs. Madison's brother.

creet and proper use of them, but subject to the qualification in the succeeding clause. Considering the peculiarity and magnitude of the occasion which produced the Convention at Philadelphia in 1787, the Characters who composed it, the Constitution which resulted from their deliberations, its effects during a trial of so many years on the prosperity of the people living under it, and the interest it has inspired among the friends of free Government, it is not an unreasonable inference that a careful and extended report of the proceedings and discussions of that body, which were with closed doors, by a member who was constant in his attendance, will be particularly gratifying to the people of the United States, and to all who take an interest in the progress of political science and the course of true liberty. It is my desire that the Report as made by me should be published under her authority and direction."[1]

This desire was never consummated, for Mrs. Madison's friends advised her that she could not herself profitably undertake the publication of the work, and she accordingly offered it to the Government, by which it was bought for $30,000, by act of Congress, approved March 3, 1837. On July 9, 1838, an act was approved authorizing the Joint Committee on the Library to cause the papers thus purchased to be published, and the Committee intrusted the superintendence of the work to Henry D. Gilpin, Solicitor of the Treasury. The duplicate

[1] Orange County, Va., MSS. records.

copy of the journal which Mrs. Madison had delivered was, under authority of Congress, withdrawn from the State Department and placed in Mr. Gilpin's hands. In 1840 (Washington: Lantree & O'Sullivan), accordingly, appeared the three volumes, *The Papers of James Madison Purchased by Order of Congress*, edited by Henry D. Gilpin. Other issues of this edition, with changes of date, came out later in New York, Boston, and Mobile. This issue contained not only the journal of the Constitutional Convention, but Madison's notes of the debates in the Continental Congress and in the Congress of the Confederation from February 19 to April 25, 1787, and a report Jefferson had written of the debates in 1776 on the Declaration of Independence, besides a number of letters of Madison's. From the text of Gilpin a fifth volume was added to Elliot's *Debates* in 1845, and it was printed in one volume in Chicago, 1893.

Mr. Gilpin's reading of the duplicate copy of the Madison journal is thus the only one that has hitherto been published.[1] His work was both painstaking and thorough, but many inaccuracies and omissions have been revealed by a second reading from the original manuscript journal written in Madison's own hand, just as he himself left it; and this original manuscript has been followed with rigid accuracy in the text of the present edition.

[1] Volume iii of *The Documentary History of the United States* (Department of State, 1894) is a presentation of a literal print of the original journal, indicating by the use of larger and smaller type and by explanatory words the portions which are interlined or stricken out.

The editor has compared carefully with Madison's report, as the notes will show, the incomplete and less important records of the convention, kept by others. Of these, the best known is that of Robert Yates, a delegate in the convention from New York, who took notes from the time he entered the convention, May 25, to July 5, when he went home to oppose what he foresaw would be the result of the convention's labors. These notes were published in 1821 (Albany), edited by Yates's colleague in the convention, John Lansing, under the title, *Secret Proceedings and Debates of the Convention Assembled at Philadelphia, in the Year 1787, for the Purpose of Forming the Constitution of the United States of America.* This was afterwards reprinted in several editions and in the three editions of *The Debates on the Federal Constitution*, by Jonathan Elliot (Washington, 1827–1836). Madison pronounced Yates's notes "Crude and broken." "When I looked over them some years ago," he wrote to J. C. Cabell, February 2, 1829, "I was struck with the number of instances in which he had totally mistaken what was said by me, or given it in scraps and terms which, taken without the developments or qualifications accompanying them, had an import essentially different from what was intended." Yates's notes were colored by his prejudices, which were strong against the leaders of the convention, but, making allowance for this and for their incompleteness, they are of high value and rank next to Madison's in importance.

Rufus King, a delegate from Massachusetts, kept a number of notes, scattered and imperfect, which were not published till 1894, when they appeared in King's *Life and Correspondence of Rufus King* (New York: Putnam's).

William Pierce, a delegate from Georgia, made some memoranda of the proceedings of the convention, and brief and interesting sketches of all the delegates, which were first printed in *The Savannah Georgian*, April 18–28, 1828, and reprinted in *The American Historical Review* for January, 1898.

The notes of Yates, King, and Pierce are the only unofficial record of the convention extant, besides Madison's, and their chief value is in connection with the Madison record, which in the main they support, and which occasionally they elucidate.

December 30, 1818, Charles Pinckney wrote to John Quincy Adams that he had made more notes of the convention than any other member except Madison, but they were never published and have been lost or destroyed.[1]

In 1819 (Boston) was published the *Journal, Acts and Proceedings of the Convention*, etc., under the supervision of John Quincy Adams, Secretary of State, by authority of a joint resolution of Congress of March 27, 1818. This was the official journal of the convention, which the Secretary, William Jackson, had turned over to the President, George Washington, when the convention adjourned, Jackson having previously burned all other papers of the

[1] See p. 25, n.

convention in his possession. March 16, 1796, Washington deposited the papers Jackson had given him with the Secretary of State, Timothy Pickering. They consisted of three volumes,—the journal of the convention, the journal of the proceedings of the Committee of the Whole of the convention, and a list of yeas and nays, beside a printed draft of the Constitution as reported August 6th, showing erasures and amendments afterwards adopted, and the Virginia plan in different stages of development.

In preparing the matter for publication Secretary Adams found that for Friday, September 14, and Saturday, September 15, the journal was a mere fragment, and Madison was applied to and completed it from his minutes. From General B. Bloomfield, executor of the estate of David Brearley, a delegate in the convention from New Jersey, Adams obtained a few additional papers, and from Charles Pinckney a copy of what purported to be the plan of a constitution submitted by him to the convention. All of these papers, with some others, appeared in the edition of 1819, which was a singularly accurate publication, as comparison by the present editor of the printed page with the original papers has shown.

The Pinckney plan, as it appeared in this edition of the journal, was incorporated by Madison into his record, as he had not secured a copy of it when the convention was sitting. But the draft furnished to Secretary Adams in 1818, and the plan presented by Pinckney to the convention in 1787

were not identical, as Madison conclusively proved in his note to his journal, in his letter to Jared Sparks of November 25, 1831, and in several other letters, in all of which he showed that the draft did not agree in several important respects with Pinckney's own votes and motions in the convention, and that there were important discrepancies between it and Pinckney's *Observations on the Plan of Government*, a pamphlet printed shortly after the convention adjourned.[1]

It is, indeed, inconceivable that the convention should have incorporated into the constitution so many of the provisions of the Pinckney draft, and that at the same time so little reference should have been made to it in the course of the debates; and it is equally extraordinary that the contemporaries of Pinckney did not accord to him the chief paternity of the Constitution, which honor would have belonged to him if the draft he sent to Mr. Adams in 1818 had been the one he actually offered the convention in the first week of its session. The editor has made a careful examination of the original manuscripts in the case. They consist (1) of Mr. Pinckney's letter to Mr. Adams of December 12, 1818, written from Wingaw, S. C., while Pinckney was temporarily absent from Charleston, acknowledging Mr. Adams's request for the draft, (2) his letter of December 30, written from Charleston, transmitting the draft, and (3) the draft. The penmanship of all three papers is contemporaneous, and the letter of

[1] See P. L. Ford's *Pamphlets on the Constitution*, 419.

December 30 and the draft were written with the same pen and ink. This may possibly admit of a difference of opinion, because the draft is in a somewhat larger chirography than the letter, having been, as befitted its importance, written more carefully. But the letter and the draft are written upon the same paper, and this paper was not made when the convention sat in 1787. There are several sheets of the draft and one of the letter, and all bear the same water-mark—"Russell & Co. 1797." The draft cannot, therefore, claim to be the original Pinckney plan, and was palpably made for the occasion, from Mr. Pinckney's original notes doubtless, aided and modified by a copy of the Constitution itself. Thirty years had elapsed since the close of the Constitutional Convention when the draft was compiled, and its incorrectness is not a circumstance to occasion great wonder.[1]

Correspondence on the subject of the convention, written while it was in session, was not extensive, but some unpublished letters throwing light upon contemporaneous opinion have been found and are quoted in the notes.

The editor desires to record his obligation for assistance in preparing these volumes to his friend, Montgomery Blair, Esq., of Silver Spring, Md.

GAILLARD HUNT.

CHERRY HILL FARM, VA.,
September, 1902.

[1] See p. 22, n.

CHRONOLOGY OF JAMES MADISON.

1787.

1787. May 6–25. Prepares the "Virginia plan" in conjunction with the Virginia delegates.

May 14. Attends the first gathering of the delegates.

May 30. Moves postponement of question of representation by free population.

Moves that congressional representation be proportioned to the importance and size of the States.

Makes his first speech on this subject.

May 31. Advocates representation in one house by popular election.

Opposes uniting several States into one district for representation in Senate.

Doubts practicability of enumerating powers of national legislature.

Suggests the impossibility of using force to coerce individual States.

June 1. Moves that the powers of the Executive be enumerated.

June 2. Objects to giving Congress power to remove the President upon demand of a majority of the State legislatures.

June 4. Favors giving power to more than a majority of the national legislature to overrule an Executive negative of a law.

June 5. Opposes election of judges by both branches of Congress.

June 5. Advocates submission of constitution to conventions of the people.

Favors inferior judicial tribunals.

June 6. Speaks for popular representation in the House.

Seconds motion to include a portion of the Judiciary with the Executive in revisionary power over laws.

June 7. Speaks for proportional representation in both houses of Congress.

June 8. Seconds motion to give Congress power to negative State laws.

Suggests temporary operation of urgent laws.

June 12. Seconds motion to make term of Representatives three years.

Thinks the people will follow the convention.

Favors a term of seven years for Senators.

June 13. Moves defining powers of Judiciary.

Objects to appointment of judges by whole legislature.

Thinks both houses should have right to originate money bills.

Advocates a national government and opposes the "Jersey plan."

June 21. Speaks in favor of national supremacy.

Opposes annual or biennial elections of Representatives.

June 22. Favors fixing payment of salaries by a standard.

June 23. Proposes to debar Senators from offices created or enhanced during their term.

Speaks for the proposition.

June 25. Wishes to take up question of right of suffrage.

June 26. Speaks for a long term for Senators.

Opposes their payment by the States.

June 28. Speaks for proportional representation.

June 29. Insists that too much stress is laid on State sovereignty.

June 30. Contends against equal State representation in the Senate.

Speaks again on subject, but would preserve State rights.

July 2. Opposes submission of the question to a special committee.

July 5. Opposes compromise report of committee.

July 6. Thinks part of report need not be postponed.

July 7. Thinks question of representation ought to be settled before other questions.

July 9. Suggests free inhabitants as basis of representation in one house, and all inhabitants as basis in the other house.

July 10. Moves increase of Representatives.

July 11. Favors representation based on population.

July 14. Urges proportional representation as necessary to protect the smaller States.

July 17. Advocates national power of negative over State laws.

Thinks the branches of government should be kept separate.

Thinks monarchy likely to follow instability.

Thinks there should be provision for interregnum between adoption and operation of constitution.

Moves national guarantee of States against domestic violence.

July 18. Seconds motion forbidding a State to form any but a republican government.

THE WRITINGS OF

JAMES MADISON.

JOURNAL OF THE CONSTITUTIONAL CONVENTION OF 1787.

Monday May 14th 1787 was the day fixed for the meeting of the deputies in Convention for revising the federal System of Government. On that day a small number only had assembled. Seven States were not convened till,

Friday 25 of May, when the following members appeared to wit:

From *Massachusetts*, Rufus King. *N. York*, Robert Yates,[1] Alexr Hamilton. *N. Jersey*, David Brearly, William Churchill Houston, William Patterson. *Pennsylvania*, Robert Morris, Thomas Fitzsimons, James

---

[1] William Pierce, delegate from Georgia, made an estimate of each member of the convention, the only contemporary estimate thus far brought to light. Yates did not speak in the Convention.

"Mr Yates is said to be an able Judge. He is a Man of great legal abilities, but not distinguished as an Orator. Some of his Enemies say he is an anti-federal Man, but I discovered no such disposition in him. He is about 45 years old, and enjoys a great share of health." —Pierce's Notes, *Am. Hist. Rev.*, iii., 327. For more about Pierce's notes, see p. 45, n.

Wilson, Governeur Morris. *Delaware*, George Read, Richard Basset,[1] Jacob Broome. *Virginia*, George Washington, Edmund Randolph, John Blair,[2] James Madison, George Mason, George Wythe, James McClurg. *N Carolina*, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, Hugh Williamson. *S. Carolina*, John Rutlidge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler. *Georgia*, William Few.[3]

Mr Robert Morris[4] informed the members assem-

[1] "Mr. Bassett is a religious enthusiast, lately turned Methodist, and serves his Country because it is the will of the people that he should do so. He is a Man of plain sense, and has modesty enough to hold his Tongue. He is Gentlemanly Man and is in high estimation among the Methodists. Mr. Bassett is about 36 years old."—Pierce's notes, *Id.*, iii., 330. He did not speak in the Convention.

[2] "Mr. Blair is one of the most respectable Men in Virginia, both on account of his Family as well as fortune. He is one of the Judges of the Supreme Court in Virginia, and acknowledged to have a very extensive knowledge of the Laws. Mr. Blair is however, no Orator, but his good sense, and most excellent principles, compensate for other deficiencies. He is about 50 years of age."—Pierce's Notes, *Id.*, iii., 331. He did not speak in the Convention.

[3] "Mr. Few possesses a strong natural Genius, and from application has acquired some knowledge of legal matters;—he practises at the bar of Georgia, and speaks tolerably well in the Legislature. He has been twice a Member of Congress, and served in that capacity with fidelity to his State, and honor to himself. Mr. Few is about 35 years of age."—Pierce's Notes, *Id.*, iii., 333. He did not speak in the Convention.

The credentials of Connecticut and Maryland required but one deputy to represent the state; of New York, South Carolina, Georgia, and New Hampshire, two deputies; of Massachusetts, New Jersey, Delaware, Virginia, and North Carolina, three; of Pennsylvania, four. —*Journal of the Federal Convention*, 16 *et seq.*; *Documentary History of the Constitution*, i., 10 *et seq.*

[4] "Robert Morris is a merchant of great eminence and wealth; an able Financier, and a worthy Patriot. He has an understanding equal

[illegible] was accordingly unanimously elected by ballot, and conducted to the
chair by Mr. R. Morris and Mr. Stuttidge; from which [illegible] in very emphatic

bled that by the instruction & in behalf, of the deputation of Pen^a^ he proposed George Washington, Esqr late Commander in chief for president of the Convention. Mr Jno Rutlidge seconded the motion; expressing his confidence that the choice would be unanimous, and observing that the presence of Genl Washington forbade any observations on the occasion which might otherwise be proper.

General Washington[1] was accordingly unanimously elected by ballot, and conducted to the Chair by Mr R. Morris and Mr Rutlidge; from which in a very emphatic manner he thanked the Convention for the honor they had conferred on him, reminded them of the novelty of the scene of business in which he was to act, lamented his want of better qualifications, and claimed the indulgence of the House

to any public object, and possesses an energy of mind that few Men can boast of. Although he is not learned, yet he is as great as those who are. I am told that when he speaks in the Assembly of Pennsylvania, that he bears down all before him. What could have been his reason for not Speaking in the Convention I know not,—but he never once spoke on any point. This Gentleman is about 50 years old."—Pierce's Notes, *Am. Hist. Rev.*, iii., 328.

[1] "Genl Washington is well known as the Commander in chief of the late American Army. Having conducted these States to independence and peace, he now appears to assist in framing a Government to make the People happy. Like Gustavus Vasa, he may be said to be the deliverer of his Country;—like Peter the great he appears as the politician and the States-man; and like Cincinnatus he returned to his farm perfectly contented with being only a plain Citizen, after enjoying the highest honor of the confederacy,—and now only seeks for the approbation of his Country-men by being virtuous and useful. The General was conducted to the Chair as President of the Convention by the unanimous voice of its Members. He is in the 52^d^ year of his age."—Pierce's Notes, *Id.*, iii., 331.

towards the involuntary errors which his inexperience might occasion.

(The nomination came with particular grace from Penna, as Doc^r Franklin alone could have been thought of as a competitor. The Doc^r was himself to have made the nomination of General Washington, but the state of the weather and of his health confined him to his house.)

Mr Wilson[1] moved that a Secretary be appointed, and nominated Mr Temple Franklin.

Col Hamilton[2] nominated Major Jackson.

[1] "Mr. Wilson ranks among the foremost in legal and political knowledge. He has joined to a fine genius all that can set him off and show him to advantage. He is well acquainted with Man, and understands all the passions that influence him. Government seems to have been his peculiar Study, all the political institutions of the World he knows in detail, and can trace the causes and effects of every revolution from the earliest stages of the Greecian commonwealth down to the present time. No man is more clear, copious, and comprehensive than Mr. Wilson, yet he is no great Orator. He draws the attention not by the charm of his eloquence, but by the force of his reasoning. He is about 45 years old."—Pierce's Notes, *Am. Hist. Rev.*, iii., 329.

[2] "Col^o Hamilton is deservedly celebrated for his talents. He is a practitioner of the Law, and reputed to be a finished Scholar. To a clear and strong judgment he unites the ornaments of fancy, and whilst he is able, convincing, and engaging in his eloquence the Heart and Head sympathize in approving him. Yet there is something too feeble in his voice to be equal to the strains of oratory; —it is my opinion he is rather a convincing Speaker, that [than] a blazing Orator. Col^o Hamilton requires time to think,—he enquires into every part of his subject with the searchings of phylosophy, and when he comes forward he comes highly charged with interesting matter, there is no skimming over the surface of a subject with him, he must sink to the bottom to see what foundation it rests on.—His language is not always equal, sometimes didactic like Bolingbroke's, at others light and tripping like Stern's. His eloquence is not so defusive as to trifle with the senses, but he rambles just enough to strike and keep up the attention. He is about 33 years old, of

On the ballot Maj^r Jackson had 5 votes & Mr Franklin 2 votes.

On reading the Credentials of the deputies it was noticed that those from Delaware were prohibited from changing the Article in the Confederation establishing an equality of votes among the States.[1]

The appointment of a Committee, consisting of Messrs Wythe, Hamilton & C. Pinckney, on the motion of Mr. Pinckney, to prepare standing rules & orders was the only remaining step taken on this day.

MONDAY MAY 28.—

From Mass^ts Nat: Gorham & Caleb Strong. From Connecticut Oliver Elseworth. From Delaware, Gunning Bedford. From Maryland James McHenry. From Penn^a B. Franklin, George Clymer, Th^s Mifflin & Jared Ingersol, took their seats.[2]

---

small stature, and lean. His manners are tinctured with stiffness, and sometimes with a degree of vanity that is highly disagreable."—Pierce's Notes, *Am. Hist. Rev.*, iii., 327.

[1] ". . . So also and Provided, that such Alterations or further Provisions, or any of them, do not extend to that part of the Fifth Article of the Confederation of the said States, finally ratified on the first day March, in the Year One thousand seven hundred and eighty one, which declares that 'In determining Questions in the United States in Congress Assembled each State shall have one Vote.'"—*Documentary History of the Constitution* (Dept. of State), i., 24.

[2] "Entre nous. I believe the Eastern people have taken ground they will not depart from respecting the Convention.—One legislature composed of a lower-house triennially elected and an *Executive* & *Senate* for a good number of years.—I shall see Gerry & Johnson, as they pass & may perhaps give you a hint."—William Grayson to Madison, New York, May 24, 1787, *Mad. MSS.*

Mr Wythe[1] from the Committee for preparing rules made a report which employed the deliberations of this day.

Mr King[2] objected to one of the rules in the Report authorizing any member to call for the yeas & nays and have them entered on the minutes. He urged that as the acts of the Convention were not to bind the Constituents, it was unnecessary to exhibit this evidence of the votes; and improper as changes of opinion would be frequent in the course of the business & would fill the minutes with contradictions.

[1] "Mr Wythe is the famous Professor of Law at the University of William and Mary. He is confessedly one of the most learned legal Characters of the present age. From his close attention to the study of general learning he has acquired a compleat knowledge of the dead languages and all the sciences. He is remarked for his exemplary life, and universally esteemed for his good principles. No Man it is said understands the history of Government better than Mr Wythe,—nor any one who understands the fluctuating condition to which all societies are liable better than he does, yet from his too favorable opinion of Men, he is no great politician. He is a neat and pleasing Speaker, and a most correct and able Writer. Mr. Wythe is about 55 years of age."—Pierce's Notes, *Am. Hist. Rev.*, iii., 331.

[2] "Mr King is a Man much distinguished for his eloquence and great parliamentary talents. He was educated in Massachusetts, and is said to have good classical as well as legal knowledge. He has served for three years in the Congress of the United States with great and deserved applause, and is at this time high in the confidence and approbation of his Country-men. This Gentleman is about thirty three years of age, about five feet ten inches high, well formed, an handsome face, with a strong expressive Eye, and a sweet high toned voice. In his public speaking there is something peculiarly strong and rich in his expression, clear, and convincing in his arguments, rapid and irresistible at times in his eloquence but he is not always equal. His action is natural, swimming, and graceful, but there is a rudeness of manner sometimes accompanying it. But take him *tout en semble*, he may with propriety be ranked among the luminaries of the present Age."—Pierce's Notes, *Id.*, iii., 325.

Col. Mason[1] seconded the objection; adding that such a record of the opinions of members would be an obstacle to a change of them on conviction; and in case of its being hereafter promulged must furnish handles to the adversaries of the Result of the Meeting.

The proposed rule was rejected nem. contrad certe. The standing rules[2] agreed to were as follows:[3]

Viz.

A House to do business shall consist of the Deputies of not less than seven States; and all questions shall be decided by the greater number of these

[1] "Mr. Mason is a Gentleman of remarkable strong powers, and possesses a clear and copious understanding. He is able and convincing in debate, steady and firm in his principles, and undoubtedly one of the best politicians in America. Mr. Mason is about 60 years old, with a fine strong constitution."—Pierce's Notes, *Am. Hist. Rev.*, iii., 331.

[2] Previous to the arrival of a majority of the States, the rule by which they ought to vote in the Convention had been made a subject of conversation among the members present. It was pressed by Governeur Morris and favored by Robert Morris and others from Pennsylvania, that the large States should unite in firmly refusing to the small states an equal vote, as unreasonable, and as enabling the small States to negative every good system of Government, which must, in the nature of things, be founded on a violation of that equality. The members from Virginia, conceiving that such an attempt might beget fatal altercations between the large & small States, and that it would be easier to prevail on the latter, in the course of the deliberations, to give up their equality for the sake of an effective Government, than on taking the field of discussion to disarm themselves of the right & thereby throw themselves on the mercy of the larger States, discountenanced and stifled the project.—Madison's Note.

[3] In the MS. Madison adds: "[See the Journal & copy here the printed rules]," and they were copied by him from the *Journal of the Federal Convention (1819)*. They have been compared with the MS. journal and found to be correct.

which shall be fully represented; but a less number than seven may adjourn from day to day.

Immediately after the President shall have taken the chair, and the members their seats, the minutes of the preceding day shall be read by the Secretary.

Every member, rising to speak, shall address the President; and whilst he shall be speaking, none shall pass between them, or hold discourse with another, or read a book, pamphlet or paper, printed or manuscript—and of two members rising at the same time, the President shall name him who shall be first heard.

A member shall not speak oftener than twice, without special leave, upon the same question; and not the second time, before every other, who had been silent, shall have been heard, if he choose to speak upon the subject.

A motion made and seconded, shall be repeated, and if written, as it shall be when any member shall so require, read aloud by the Secretary, before it shall be debated; and may be withdrawn at any time, before the vote upon it shall have been declared.

Orders of the day shall be read next after the minutes, and either discussed or postponed, before any other business shall be introduced.

When a debate shall arise upon a question, no motion, other than to amend the question, to commit it, or to postpone the debate shall be received.

[1]A question which is complicated, shall, at the

[1] An undecided line is drawn through the page in the MS. from here to the end of the rules; but not, as it would appear, to strike them out, as they were actually adopted by the Convention.

request of any member, be divided, and put separately on the propositions of which it is compounded.

The determination of a question, altho' fully debated, shall be postponed, if the deputies of any State desire it until the next day.

A writing which contains any matter brought on to be considered, shall be read once throughout for information, then by paragraphs to be debated, and again, with the amendments, if any, made on the second reading; and afterwards the question shall be put on the whole, amended, or approved in its original form, as the case shall be.

Committees shall be appointed by ballot; and the members who have the greatest number of ballots, altho' not a majority of the votes present, shall be the Committee. When two or more members have an equal number of votes, the member standing first on the list in the order of taking down the ballots, shall be preferred.

A member may be called to order by any other member, as well as by the President; and may be allowed to explain his conduct or expressions supposed to be reprehensible. And all questions of order shall be decided by the President without appeal or debate.

Upon a question to adjourn for the day, which may be made at any time, if it be seconded, the question shall be put without a debate.

When the House shall adjourn, every member shall stand in his place, until the President pass him.

A letter from sundry persons of the State of Rho. Island addressed to the Honorable The Chairman of the General Convention was presented to the Chair by Mr. Govr Morris,[1] and being read,[2] was

[1] "Mr Governeur Morris is one of those Genius's in whom every species of talents combine to render him conspicuous and flourishing in public debate:—He winds through all the mazes of rhetoric, and throws around him such a glare that he charms, captivates, and leads away the senses of all who hear him. With an infinite streach of fancy he brings to view things when he is engaged in deep argumentation, that render all the labor of reasoning easy and pleasing. But with all these powers he is fickle and inconstant,—never pursuing one train of thinking,—nor ever regular. He has gone through a very extensive course of reading, and is acquainted with all the sciences. No Man has more wit,—nor can any one engage the attention more than Mr Morris. He was bred to the Law, but I am told he disliked the profession, and turned Merchant. He is engaged in some great mercantile matters with his namesake, Mr Robt Morris. This Gentleman is about 38 years old, he has been unfortunate in losing one of his Legs, and getting all the flesh taken off his right arm by a scald, when a youth."—Pierce's Notes, *Am. Hist. Rev.*, iii., 329.

[2] "NEWPORT June 18th 1787

"SIR—

"The inclosed address, of which I presume your Excellency has received a duplicate, was returned to me from New York after my arrival in this State. I flattered myself that our Legislature, which convened on monday last, would have receded from the resolution therein refer'd to, and have complied with the recommendation of Congress in sending deligates to the federal convention. The upper house, or Governor, & Council, embraced the measure, but it was negatived in the house of Assembly by a large majority, notwithstanding the greatest exertions were made to support it.

"Being disappointed in their expectations, the minority in the administration and all the worthy citizens of this State, whose minds are well informd regreting the peculiarities of their Situation place their fullest confidence in the wisdom & moderation of the national council, and indulge the warmest hopes of being favorably consider'd in their deliberations. From these deliberations they anticipate a political System which must finally be adopted & from which will result the Safety, the honour, & the happiness of the United States.

"Permit me, Sir, to observe, that the measures of our present Legislature do not exhibit the real character of the State. They are

ordered to lie on the table for further consideration.

equally reprobated, & abhored by Gentlemen of the learned professions, by the whole mercantile body, & by most of the respectable farmers and mechanicks. The majority of the administration is composed of a licentious number of men, destitute of education, and many of them, Void of principle. From anarchy and confusion they derive their temporary consequence, and this they endeavor to prolong by debauching the minds of the common people, whose attention is wholly directed to the Abolition of debts both public & private. With these are associated the disaffected of every description, particularly those who were unfriendly during the war. Their paper money System, founded in oppression & fraud, they are determined to Support at every hazard. And rather than relinquish their favorite pursuit they trample upon the most sacred obligations. As a proof of this they refused to comply with a requisition of Congress for repealing all laws repugnant to the treaty of peace with Great Britain, and urged as their principal reason, that it would be calling in question the propriety of their former measures.

"These evils may be attributed, partly to the extreme freedom of our own constitution, and partly to the want of energy in the federal Union: And it is greatly to be apprehended that they cannot Speedily be removed but by uncommon and very serious exertions. It is fortunate however that the wealth and resources of this State are chiefly in possion of the well Affected, & that they are intirely devoted to the public good. "I have the honor of being Sir,

"with the greatest Veneration & esteem,

"Your excellencys very obedient &

"most humble servant—

["J. M. VARNUM.]

"His excellency

"GEN.l WASHINGTON."

The letter was inadvertently unsigned, but it was well known to come from General Varnum. The enclosure was as follows:

"PROVIDENCE, May 11. 1787.

"GENTLEMEN:

"Since the Legislature of this State have finally declined sending Delegates to Meet you in Convention for the purposes mentioned in the Resolve of Congress of the 21st February 1787, the Merchants Tradesmen and others of this place, deeply affected with the evils of the present unhappy times, have thought proper to Communicate in writing their approbation of your Meeting, And their regret that it will fall short of a Compleat Representation of the Federal Union.—

"The failure of this State was owing to the Nonconcurrence of the

Mr Butler[1] moved that the House provide ag^st interruption of business by absence of members, and

Upper House of Assembly with a Vote passed in the Lower House, for appointing Delegates to attend the said Convention, at thier Session holden at Newport on the first Wednesday of the present Month.—

"It is the general Opinion here and we believe of the well informed throughout this State, that full power for the Regulation of the Commerce of the United States, both Foreign & Domestick ought to be vested in the National Council.

"And that Effectual Arrangements should also be made for giving Operation to the present powers of Congress in thier Requisitions upon the States for National purposes.—

"As the Object of this Letter is chiefly to prevent any impressions unfavorable to the Commercial Interest of this State, from taking place in our Sister States from the Circumstance of our being unrepresented in the present National Convention, we shall not presume to enter into any detail of the objects we hope your deliberations will embrace and provide for being convinced they will be such as have a tendency to strengthen the Union, promote Commerce, increase the power & Establish the Credit of the United States.

"The result of your deliberations tending to these desireable purposes we still hope may finally be Approved and Adopted by this State, for which we pledge our Influence and best exertions.—

"In behalf of the Merchants, Tradesmen &c

"We have the Honour to be with perfect Consideration & Respect

"Your most Obedient &

"Most Humble Servant's

"JOHN BROWN	JABEZ BOWEN	Comtee.
THO^S LLOYD HALSEY	NICHO^S BROWN	
JOS. NIGHTINGALE	JOHN JENCKES	
LEVI HALL	WELCOME ARNOLD	
PHILIP ALLEN	WILLIAM RUSSELL	
PAUL ALLEN	JEREMIAH OLMY	
	WILLIAM BARTON	

"The Honble the Chairman of the General Convention

"PHILADELPHIA"

—*Const. MSS.*

Both letters are printed in the *Documentary History of the Constitution*, i., 277 and 275.

[1] "Mr. Butler is a character much respected for the many excellent virtues which he possesses. But as a politician or an Orator, he has

against licentious publications of their proceedings —to which was added by—Mr Spaight[1]—a motion to provide that on the one hand the House might not be precluded by a vote upon any question, from revising the subject matter of it, When they see cause, nor, on the other hand, be led too hastily to rescind a decision, which was the result of mature discussion. —Whereupon it was ordered that these motions be referred for the consideration of the Committee appointed to draw up the standing rules and that the Committee make report thereon.

Adj^d till tomorrow 10. OClock.

TUESDAY MAY 29.

John Dickenson and Elbridge Gerry, the former from Delaware, the latter from Mass^ts took their seats. The following rules were added, on the report of Mr Wythe from the Committee—

That no member be absent from the House, so as to interrupt the representation of the State, without leave.

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no pretensions to either. He is a Gentleman of fortune, and takes rank among the first in South Carolina. He has been appointed to Congress, and is now a Member of the Legislature of South Carolina. Mr Butler is about 40 years of age; an Irishman by birth."—Pierce's Notes, *Am. Hist. Rev.*, iii., 333.

[1] "Mr. Spaight is a worthy Man, of some abilities, and fortune. Without possessing a Genius to render him brilliant, he is able to discharge any public trust that his Country may repose in him. He is about 31 years of age."—Pierce's Notes, *Id.*, iii., 332.

That Committees do not sit whilst the House shall be or ought to be, sitting.

That no copy be taken of any entry on the journal during the sitting of the House without leave of the House.

That members only be permitted to inspect the journal.

That nothing spoken in the House be printed, or otherwise published or communicated without leave.

That a motion to reconsider a matter which has been determined by a majority, may be made, with leave unanimously given, on the same day on which the vote passed; but otherwise not without one day's previous notice: in which last case, if the House agree to the reconsideration, some future day shall be assigned for that purpose.

Mr C. Pinkney[1] moved that a Committee be appointed to superintend the Minutes.

Mr Gov.r Morris objected to it. The entry of the proceedings of the Convention belonged to the Secretary as their impartial officer. A committee might have an interest & bias in moulding the entry according to their opinions and wishes.

[1] "Mr. Charles Pinckney is a young Gentleman of the most promising talents. He is, altho' only 24 y.s of age, in possession of a very great variety of knowledge. Government, Law, History, and Phylosophy are his favorite studies, but he is intimately acquainted with every species of polite learning, and has a spirit of application and industry beyond most Men. He speaks with great neatness and perspicuity, and treats every subject as fully, without running into prolixity, as it requires. He has been a Member of Congress, and served in that Body with ability and eclat."—Pierce's Notes, *Am. Hist. Rev.*, iii., 333.

The motion was negatived, 5 noes, 4 ays.

Mr. Randolph [1] then opened the main business.[2]

He expressed his regret, that it should fall to him, rather than those, who were of longer standing in life and political experience, to open the great subject of their mission. But, as the convention had originated from Virginia, and his colleagues supposed that some proposition was expected from them, they had imposed this task on him.

He then commented on the difficulty of the crisis, and the necessity of preventing the fulfilment of the prophecies of the American downfal.

He observed that in revising the fœderal system we ought to inquire 1. into the properties, which such a government ought to possess, 2. the defects of the confederation, 3. the danger of our situation & 4. the remedy.

1. The Character of such a government ought to secure 1. against foreign invasion: 2. against dissensions between members of the Union, or seditions in particular States: 3. to procure to the several States various blessings, of which an isolated situation was incapable: 4. to be able to defend

[1] "Mr. Randolph is Governor of Virginia,—a young Gentleman in whom unite all the accomplishments of the Scholar, and the Statesman. He came forward with the postulata, or first principles, on which the Convention acted, and he supported them with a force of eloquence and reasoning that did him great honor. He has a most harmonious voice, a fine person and striking manners. Mr. Randolph is about 32 years of age."—Pierce's Notes, *Id.*, iii., 332.

[2] In the MS. in Randolph's hand: "[here insert his speech including his resolutions]." The speech also is in Randolph's hand, having been furnished by him.

itself against encroachment: & 5. to be paramount to the state constitutions.

2. In speaking of the defects of the confederation he professed a high respect for its authors, and considered them as having done all that patriots could do, in the then infancy of the science, of constitutions, & of confederacies,—when the inefficiency of requisitions was unknown—no commercial discord had arisen among any States—no rebellion had appeared as in Mass^ts^—foreign debts had not become urgent—the havoc of paper money had not been foreseen—treaties had not been violated—and perhaps nothing better could be obtained from the jealousy of the states with regard to their sovereignty.

He then proceeded to enumerate the defects. 1. that the confederation produced no security against foreign invasion; congress not being permitted to prevent a war nor to support it by their own authority—Of this he cited many examples; most of which tended to shew, that they could not cause infractions of treaties or of the law of nations to be punished: that particular states might by their conduct provoke war without controul; and that neither militia nor draughts being fit for defence on such occasions, enlistments only could be successful, and these could not be executed without money.

2, that the fœderal government could not check the quarrels between states, nor a rebellion in any, not having constitutional power nor means to interpose accordingly to the exigency.

3, that there were many advantages, which the U. S. might acquire, which were not attainable under the confederation—such as a productive impost—counteraction of the commercial regulations of other nations—pushing of commerce ad libitum,—&c &c.

4, that the fœderal government could not defend itself against encroachments from the states.

5, that it was not even paramount to the state constitutions, ratified as it was in many of the states.

3. He next reviewed the danger of our situation, appealed to the sense of the best friends of the U. S. the prospect of anarchy from the laxity of government every where; and to other considerations.

4. He then proceeded to the remedy; the basis of which he said must be the republican principle.

He proposed as conformable to his ideas the following resolutions, which he explained one by one.

1. Resolved that the articles of Confederation ought to be so corrected & enlarged as to accomplish the objects proposed by their institution; namely, "common defence, security of liberty, and general welfare."

2. Res^d^ therefore that the rights of suffrage in the National Legislature ought to be proportioned to the Quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

3. Res^d^ that the National Legislature ought to consist of two branches.

4. Res^d^ that the members of the first branch of the National Legislature ought to be elected by the

people of the several States every ——— for the term of ———; to be of the age of —— years at least, to receive liberal stipends by which they may be compensated for the devotion of their time to the public service; to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belong to the functions of the first branch, during the term of service, and for the space of ——— after its expiration; to be incapable of re-election for the space of ——— after the expiration of their term of service, and to be subject to recall.

5. Resol.d that the members of the second branch of the National Legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual Legislatures, to be of the age of —— years at least; to hold their offices for a term sufficient to ensure their independency; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; and to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service; and for the space of ——— after the expiration thereof.

6. Resolved that each branch ought to possess the right of originating Acts; that the National Legislature ought to be empowered to enjoy the Legislative Rights vested in Congress by the Confederation & moreover to legislate in all cases to

which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation; to negative all laws passed by the several States contravening in the opinion of the National Legislature the articles of Union; and to call forth the force of the Union ag.st any member of the Union failing to fulfil its duty under the articles thereof.

7. Res.d that a National Executive be instituted; to be chosen by the National Legislature for the term of ——— years, to receive punctually at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the Magistracy, existing at the time of increase or diminution, and to be ineligible a second time; and that besides a general authority to execute the national laws, it ought to enjoy the Executive rights vested in Congress by the Confederation.

8. Res.d that the Executive and a convenient number of the National Judiciary, ought to compose a Council of revision with authority to examine every act of the National Legislature before it shall operate, & every act of a particular Legislature before a Negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the Act of the National Legislature be again passed, or that of a particular Legislature be again negatived by ——— of the members of each branch.

9. Res.d that a National Judiciary be established to consist of one or more supreme tribunals, and of

inferior tribunals to be chosen by the National Legislature, to hold their offices during good behaviour; and to receive punctually at stated times fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution. That the jurisdiction of the inferior tribunals shall be to hear & determine in the first instance, and of the supreme tribunal to hear and determine in the dernier resort, all Piracies & felonies on the high seas, captures from an enemy: cases in which foreigners or Citizens of other States applying to such jurisdictions may be interested, or which respect the collection of the National revenue; impeachments of any national officers, and questions which may involve the national peace and harmony.

10. Resolv.d that provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of Government & Territory or otherwise, with the consent of a number of voices in the National Legislature less than the whole.

11. Res.d that a Republican Government & the territory of each State, except in the instance of a voluntary junction of Government & territory, ought to be guarantied by the United States to each State.

12. Res.d that provision ought to be made for the continuance of Congress and their authorities and privileges, until a given day after the reform of the articles of Union shall be adopted, and for the completion of all their engagements.

13. Res.d that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary, and that the assent of the National Legislature ought not to be required thereto.

14. Res.d that the Legislative Executive & Judiciary powers within the several States ought to be bound by oath to support the articles of Union.

15. Res.d that the amendments which shall be offered to the Confederation, by the Convention ought at a proper time, or times, after the approbation of Congress to be submitted to an assembly or assemblies of Representatives, recommended by the several Legislatures to be expressly chosen by the people to consider & decide thereon.

He concluded with an exhortation, not to suffer the present opportunity of establishing general peace, harmony, happiness and liberty in the U. S. to pass away unimproved.[1]

It was then Resolved—That the House will tomorrow resolve itself into a Committee of the Whole House to consider of the state of the American Union — and that the propositions moved by Mr. Randolph be referred to the said Committee.

Mr. Charles Pinkney laid before the House the draft of a federal Government which he had prepared, to be agreed upon between the free and

[1] This abstract of the speech was furnished to J. M. by Mr. Randolph and is in his handwriting. As a report of it from him had been relied on, it was omitted by J. M.—*Madison's Note.* The fifteen resolutions, constituting the "Virginia Plan," are in Madison's handwriting.

independent States of America.[1]—Mr P. plan ordered that the same be referred to the Committee of the Whole appointed to consider the state of the American Union.[2]

[1] Robert Yates, delegate from New York, kept notes of the proceedings of the Convention, until he left July 5th, with his colleague, John Lansing. They wrote a joint letter to Governor Clinton afterwards, giving their reasons: "We were not present at the completion of the new constitution; but before we left the convention, its principles were so well established as to convince us, that no alteration was to be expected to conform it to our ideas of expediency and safety."—*Secret Proceedings of the Federal Convention*, 10. Yates's notes are quoted here, whenever they are at variance with Madison's. He gives Pinckney's motion as follows: "Mr. C. Pinckney, a member from South Carolina, then added, that he had reduced his ideas of a new government to a system, which he read, and confessed that it was grounded on the same principle as of the above [the Randolph] resolutions."—*Id.*, 97.

[2] Charles Pinckney wrote to John Quincy Adams:

"WINGAW NEAR GEORGETOWN December 12 1818

"SIR

"I have just had the honour to receive your favour—Being at present absent from Charleston on a visit to my planting interest in this neighbourhood I shall in consequence of your letter shorten my stay here considerably & return to Town for the purpose of complying with your request as soon as possible—From an inspection of my old papers not long ago I know it was then easily in my power to have complied with your request—I still hope it is & as soon as I return to my residence in Charleston will again, or as quickly as I can write you on it to prevent delay.

"The Draught of the Constitution proposed by me was divided into a number of articles & was in complete detail—the resolutions offered by Mr Randolph were merely general ones & as far as I recollect they were both referred to the same Committee.

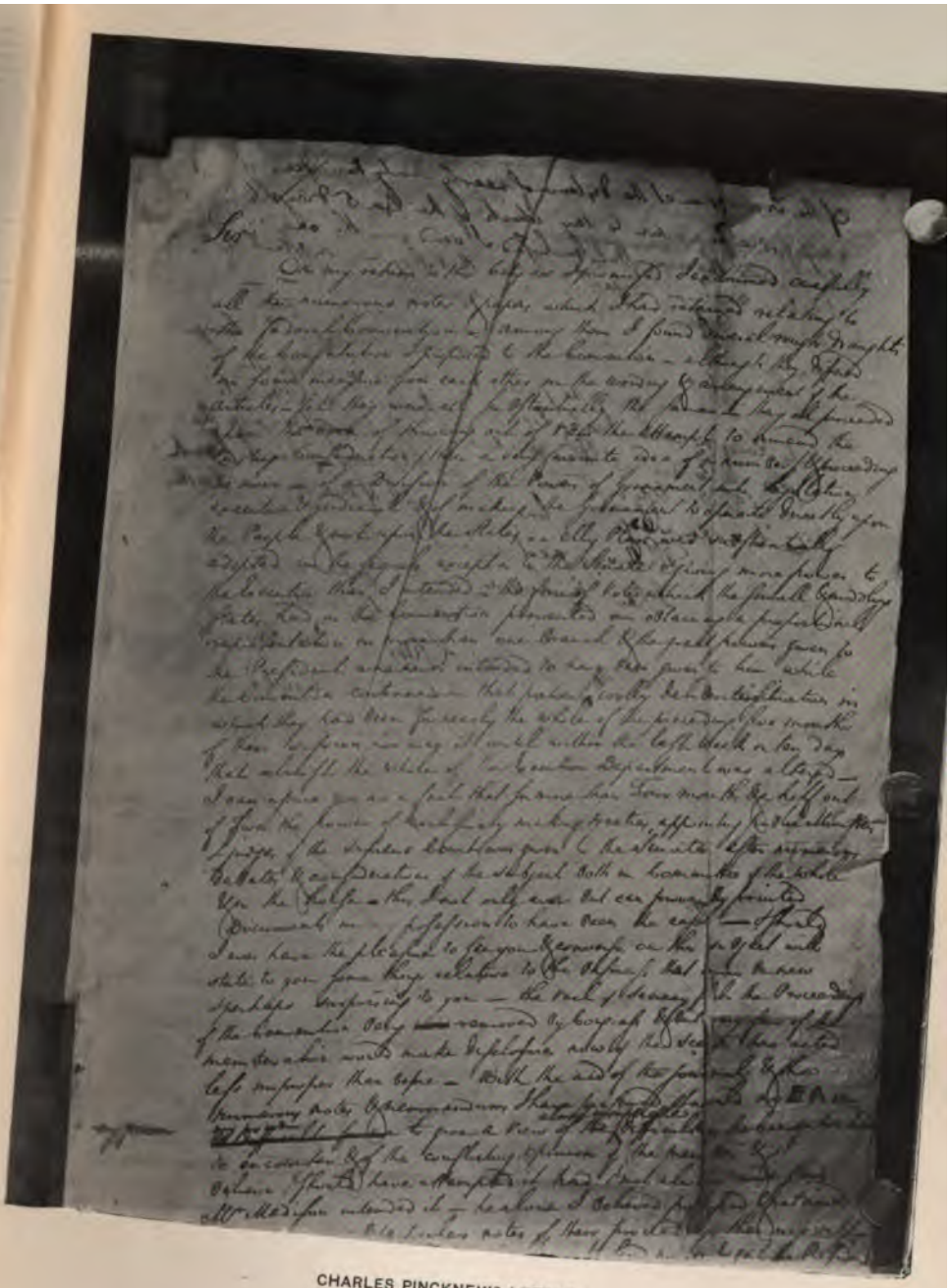
"With great respect & esteem" &c.

—*Dept. of State MSS.*, Miscellaneous Letters.

Three weeks later he wrote again:

"SIR

"On my return to this City as I promised I examined carefully all the numerous notes & papers which I had retained relating to the federal Convention—among them I found several rough draughts of



CHARLES PINCKNEY'S LETTER.
(Reduced.)

We the People of the States of New Hampshire Massachusetts Rhode Island & Providence Planta-

the Constitution I proposed to the Convention—although they differed in some measure from each other in the wording & arrangement of the articles—yet they were all substantially the same—they all proceeded upon the idea of throwing out of view the attempt to amend the existing Confederation (then a very favorite idea of a number) & proceeding de novo—of a Division of the Powers of Government into legislative executive & judicial & of making the Government to operate directly upon the People & not upon the States. My Plan was substantially adopted in the sequel except as to the Senate & giving more power to the Executive than I intended—the force of vote which the small & middling states had in the Convention prevented our obtaining a proportional representation in more than one branch & the great powers given to the President were never intended to have been given to him while the Convention continued in that patient & coolly deliberative situation in which they had been for nearly the whole of the preceding five months of their session nor was it until within the last week or ten days that almost the whole of the Executive Department was altered—I can assure you as a fact that for more than Four months & a half out of five the power of exclusively making treaties, appointing for the Ministers & judges of the Supreme Court was given to the Senate after numerous debates & consideration of the subject both in Committee of the whole & in the house—this I not only aver but can prove by printed Documents in my possession to have been the case—& should I ever have the pleasure to see you & converse on the subject will state to you some things relative to this business that may be new & perhaps surprising to you—the veil of secrecy from the Proceedings of the Convention being removed by Congress & but very few of the members alive would make disclosures now of the secrets there acted less improper than before—With the aid of the journal & the numerous notes & memorandums I have preserved should now be in my power to give a View of the almost insuperable difficulties the Convention had to encounter & of the conflicting opinions of the members I believe should have attempted it had I not always understood Mr Madison intended it—he alone I believe possessed & retained more numerous & particular notes of their proceedings than myself. I will thank you sir to do me the honour to send me or to get the President to direct a copy of the Journal of the Convention to be sent me as also of the Secret Journals of Congress should it be considered not improper in me to make the request.

"I have already informed you I have several rough draughts of the

tions Connecticut New York New Jersey Pennsylvania Delaware Maryland Virginia North Carolina South Carolina & Georgia do ordain, declare &

Constitution I proposed & that they are all substantially the same differing only in words & the arrangement of the Articles—at the distance of nearly thirty two years it is impossible for me now to say which of the 4 or 5 draughts I have was the one but enclosed I send you the one I believe was it—I repeat however that they are substantially the same differing only in form & unessentials—It may be necessary to remark that very soon after the Convention met I changed & avowed candidly the change of my opinion on giving the power to Congress to revise the State Laws in certain cases & in giving the exclusive Power to the Senate to declare War thinking it safer to refuse the first altogether & to vest the latter in Congress—I will thank you to acknowledge by a line the receipt of the Draught & this.

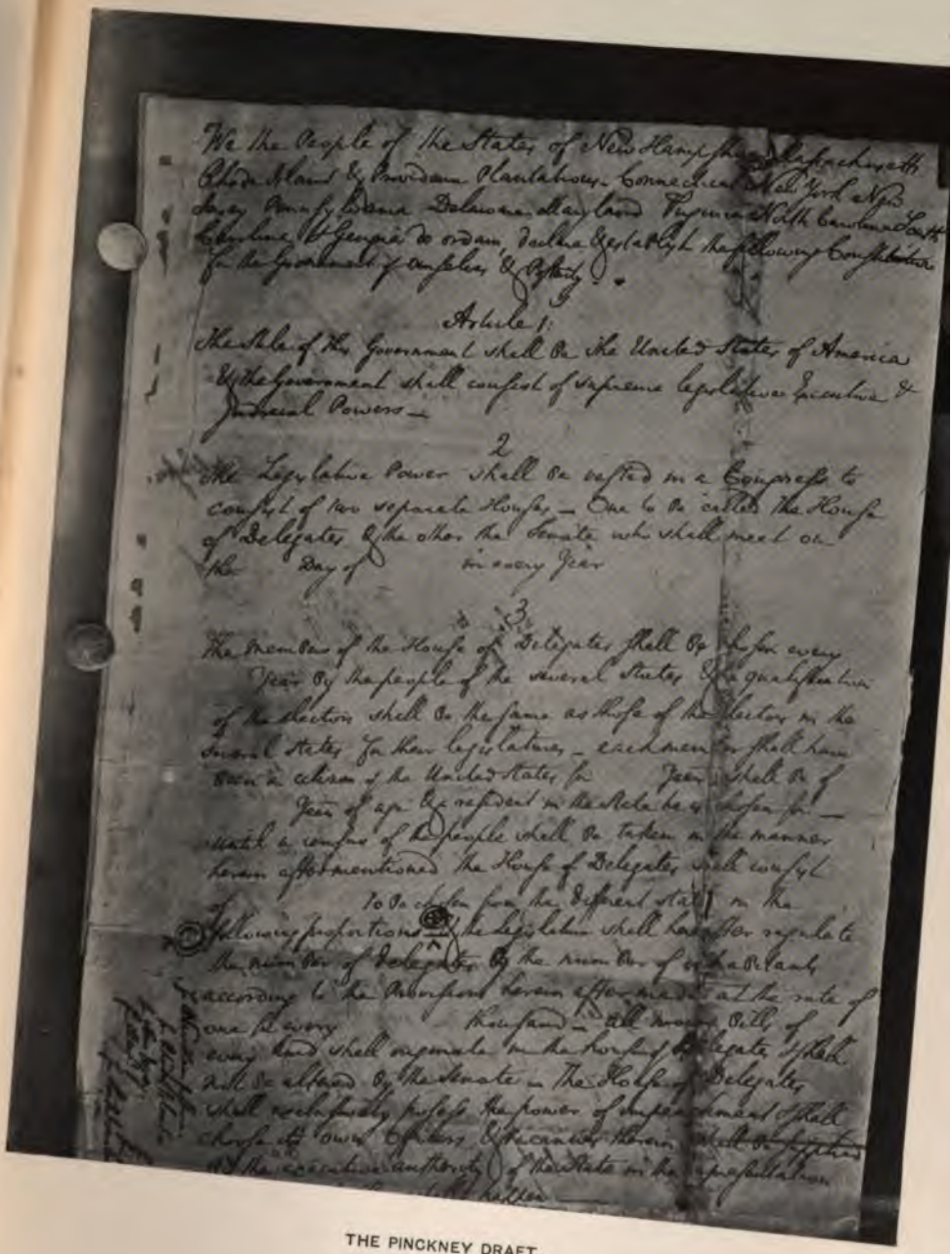
"With very great respect & esteem
"I have the honour to be your most
"Obedient servant
"CHARLES PINCKNEY.
"December 30 1818
"In Charleston."—*Const. MSS.*

The plan is written upon paper of the same size as the letter, and with the same ink. It is undoubtedly contemporaneous with the letter.

Madison wrote the following note to accompany his journal:

"The length of the Document laid before the Convention, and other circumstances having prevented the taking of a copy at the time, that which is here inserted was taken from the paper furnished to the Secretary of State, and contained in the Journal of the Convention published in 1819. On comparing the paper with the Constitution in its final form, or in some of its Stages; and with the propositions, and speeches of Mr. Pinckney in the Convention, it would seem that considerable errour must have crept into the paper; occasioned possibly by the loss of the Document laid before the convention (neither that nor the Resolutions offered by Mr. Patterson being among the preserved papers) and by a consequent resort for a copy to the rough draught, in which erasures and interlineations following what passed in the convention, might be confounded with the original text, and after a lapse of more than thirty years, confounded also in the memory of the author.

"There is in the paper a similarity in some cases, and an identity in others, with details, expressions, and definitions, the results of critical



We the People of the States of New Hampshire Massachusetts Rhode Island & Providence Plantations Connecticut New York New Jersey Pennsylvania Delaware Maryland Virginia North Carolina South Carolina & Georgia do ordain declare & establish the following Constitution for the Government of ourselves & Posterity.

Article 1.

The Style of this Government shall be the United States of America & the Government shall consist of supreme legislative Executive & Judicial Powers —

2

The Legislative Power shall be vested in a Congress to consist of two separate Houses — One to be called the House of Delegates & the other the Senate who shall meet on the Day of in every Year

3

The Members of the House of Delegates shall be chosen every Year by the people of the several States & the qualification of the electors shall be the same as those of the electors in the several States for their legislatures — each member shall have been a citizen of the United States for Years shall be of Years of age & a resident in the State he is chosen for — until a census of the people shall be taken in the manner herein after mentioned the House of Delegates shall consist of to be chosen from the different States in the following proportions — & the Legislature shall hereafter regulate the number of Delegates by the number of inhabitants according to the Provisions herein after made at the rate of one for every thousand — All money Bills of every kind shall originate in the house of Delegates & shall not be altered by the Senate — The House of Delegates shall exclusively possess the power of impeachment & shall choose its own Officers & Vacancies therein shall be supplied by the executive authority of the State in the representation [illegible] happen

THE PINCKNEY DRAFT.
(Reduced.)

establish the following Constitution for the government of ourselves & Posterity.

discussions and modifications that can not be ascribed to accident or anticipation.

"Examples may be noticed in Article VIII of the paper; which is remarkable also for the circumstance, that whilst it specifies the functions of the President, no provision is contained in the paper for the election of such an officer, nor indeed for the appointment of any executive magistracy; notwithstanding the evident purpose of the author to provide an *entire* plan of a Federal Government.

"Again, in several instances where the paper corresponds with the Constitution, it is at variance with the ideas of M· Pinckney, as decidedly expressed in his propositions, and in his arguments, the former in the Journal of the Convention, the latter in the report of its debates: Thus in Art: VIII of the paper, provision is made for removing the President by impeachment; when it appears that in the convention, July 20. he was opposed to any impeachability of the Executive magistrate: In Art: III, it is required that all money-bills shall originate in the first Branch of the Legislature; which he strenuously opposed Aug: 8 and again Aug: 11: In Art: V members of each House are made ineligible to, as well as incapable of holding, any office under the union &c. as was the case at one Stage of the Constitution; a disqualification highly disapproved and opposed by him Aug: 14.

"A still more conclusive evidence of errour in the paper is seen in Art: III, which provides, as the Constitution does, that the first Branch of the Legislature shall be chosen by the people of the several States; whilst it appears that on the 6th of June, a few days only after the Draft was laid before the convention, its author opposed that mode of choice, urging & proposing in place of it, an election by the Legislatures of the several States.

"The remarks here made tho' not material in themselves, were due to the authenticity and accuracy aimed at, in this Record of the proceedings of a Publick Body, so much an object, sometimes, of curious research, as at all times, of profound interest."—*Mad. MSS.*

This note, as given in Gilpin's *Madison Papers (1840)*, is freely edited. The Pinckney plan is given here as Pinckney sent it to Adams. Chief-Justice Charles C. Nott, of the U. S. Court of Claims, informs the editor that correspondence with Pinckney's descendants reveals the fact that some of the notes to which he alludes in his letters are extant.

The letter of December 30, 1818, and plan, are printed in *The Documentary History of the Constitution*, i., 309 *et seq.*

ARTICLE 1:

The Style of this Government shall be The United States of America & the Government shall consist of supreme legislative Executive & judicial Powers.

2

The Legislative Power shall be vested in a Congress to consist of two separate Houses—one to be called the House of Delegates & the other the Senate who shall meet on the ——— ——— Day of ———— in every year.

3

The members of the House of Delegates shall be chosen every ——— year by the people of the several States & the qualification of the electors shall be the same as those of the electors in the several States for their legislatures—each member shall have been a citizen of the United States for ———— years; and shall be of ———— years of age & a resident in the State he is chosen for—— Until a census of the people shall be taken in the manner herein after mentioned the House of Delegates shall consist of ———————— to be chosen from the different States in the following proportions: for New Hampshire, ———; for Massachusetts ——— for Rhode Island, ——— for Connecticut, ——— for NewYork ——— for New Jersey, ——— for Pennsylvania, ——— for Delaware, ——— for Mary^ld^, ——— for Virginia, ——— for North Carolina, ———

for South Carolina, ——— for Georgia, ——— & the Legislature shall hereafter regulate the number of delegates by the number of inhabitants according to the Provisions herein after made, at the rate of one for every ——— thousand.—All money bills of every kind shall originate in the house of Delegates & shall not be altered by the Senate. The House of Delegates shall exclusively possess the power of impeachment & shall choose it's own officers & vacancies therein shall be supplied by the executive authority of the State in the representation from which they shall happen.

4

The Senate shall be elected & chosen by the House of Delegates which House immediately after their meeting shall choose by ballot ——— Senators from among the Citizens & residents of New Hampshire ——— from among those of Massachusetts ——— from among those of Rhode Island ——— from among those of Connecticut ——— from among those of New York ——— from among those of New Jersey ——— from among those of Pennsylvania ——— from among those of Delaware ——— from among those of Maryland ——— from among those of Virginia ——— from among those of North Carolina ——— from among those of South Carolina & ——— from among those of Georgia———

The Senators chosen from New Hampshire Massachusetts Rhode Island & Connecticut shall form one

class—those from New York New Jersey Pennsylvania & Delaware one class—& those from Maryland Virginia North Carolina South Carolina & Georgia one class.

The House of Delegates shall number these Classes one two & three & fix the times of their service by Lot—the first class shall serve for ——— years—the second for ——— years & the third for ——— years—as their times of service expire the House of Delegates shall fill them up by elections for ——— years & they shall fill all vacancies that arise from death or resignation for the time of service remaining of the members so dying or resigning.

Each Senator shall be ——— years of age at least —shall have been a Citizen of the United States 4 years before his election & shall be a resident of the State he is chosen from. The Senate shall choose its own Officers.

5

Each State shall prescribe the time & manner of holding elections by the People for the house of Delegates & the House of Delegates shall be the judges of the elections returns & Qualifications of their members.

In each house a Majority shall constitute a Quorum to do business — Freedom of Speech & Debate in the legislature shall not be impeached or Questioned in any place out of it & the Members of both Houses shall in all cases except for Treason Felony or Breach of the Peace be free from arrest

during their attendance at Congress & in going to & returning from it—Both Houses shall keep journals of their Proceedings & publish them except on secret occasions & the yeas & nays may be entered thereon at the desire of one —— of the members present. Neither house without the consent of the other shall adjourn for more than ——— days nor to any Place but where they are sitting.

The members of each house shall not be eligible to or capable of holding any office under the Union during the time for which they have been respectively elected nor the members of the Senate for one year after.

The members of each house shall be paid for their services by the States which they represent.

Every bill which shall have passed the Legislature shall be presented to the President of the United States for his revision—if he approves it he shall sign it—but if he does not approve it he shall return it with his objections to the house it originated in, which house if two thirds of the members present, notwithstanding the President's objections agree to pass it, shall send it to the other house with the President's objections, where if two thirds of the members present also agree to pass it, the same shall become a law—& all bills sent to the President & not returned by him within ——— days shall be laws unless the Legislature by their adjournment prevent their return in which case they shall not be laws.

6th

The Legislature of the United States shall have the power to lay & collect Taxes Duties Imposts & excises

To regulate Commerce with all nations & among the several States.

To borrow money & emit bills of Credit

To establish Post offices.

To raise armies

To build & equip Fleets

To pass laws for arming organizing & disciplining the Militia of the United States

To subdue a rebellion in any State on application of its legislature

To coin money & regulate the Value of all coins & fix the Standard of Weights & measures

To provide such Dock Yards & arsenals & erect such fortifications as may be necessary for the United States & to exercise exclusive Jurisdiction therein

To appoint a Treasurer by ballot

To constitute Tribunals inferior to the Supreme Court

To establish Post & military Roads

To establish & provide for a national University at the Seat of the Government of the United States

To establish uniform rules of Naturalization

To provide for the establishment of a Seat of Government for the United States not exceeding ——— miles square in which they shall have exclusive jurisdiction

To make rules concerning Captures from an Enemy

To declare the law & Punishment of piracies & felonies at sea & of counterfeiting Coin & of all offences against the Laws of Nations

To call forth the aid of the Militia to execute the laws of the Union enforce treaties suppress insurrections and repel invasions

And to make all laws for carrying the foregoing powers into execution.

The Legislature of the United States shall have the Power to declare the Punishment of Treason which shall consist only in levying War against the United States or any of them or in adhering to their Enemies. No person shall be convicted of Treason but by the testimony of two witnesses.

The proportion of direct taxation shall be regulated by the whole number of inhabitants of every description which number shall within —— years after the first meeting of the Legislature & within the term of every —— year after be taken in the manner to be prescribed by the legislature

No Tax shall be laid on articles exported from the States—nor capitation tax but in proportion to the Census before directed

All Laws regulating Commerce shall require the assent of two thirds of the members present in each house—The United States shall not grant any title of Nobility—The Legislature of the United States shall pass no Law on the subject of Religion, nor touching or abridging the Liberty of the Press nor

shall the privilege of the writ of Habeas Corpus ever be suspended except in case of Rebellion or Invasion.

All acts made by the Legislature of the United States pursuant to this Constitution & all Treaties made under the authority of the United States shall be the supreme Law of the land & all Judges shall be bound to consider them as such in their decisions.

7

The Senate shall have the sole & exclusive power to declare War & to make treaties & to appoint Ambassadors & other Ministers to foreign nations & Judges of the Supreme Court.

They shall have the exclusive power to regulate the manner of deciding all disputes & controversies now subsisting or which may arise between the States respecting Jurisdiction or Territory.

8

The Executive Power of the United States shall be vested in a President of the United States of America which shall be his style & his title shall be His Excellency. He shall be elected for —— years & shall be reeligible.

He shall from time to time give information to the Legislature of the state of the Union & recommend to their consideration the measures he may think necessary—he shall take care that the laws of the United States be duly executed: he shall commission all the officers of the United States & except as to Ambassadors other ministers and Judges of

the Supreme Court he shall nominate & with the consent of the Senate appoint all other officers of the United States. He shall receive public Ministers from foreign nations & may correspond with the Executives of the different States. He shall have power to grant pardons & reprieves except in impeachments—He shall be Commander in chief of the army & navy of the United States & of the Militia of the several States & shall receive a compensation which shall not be increased or diminished during his continuance in office. At entering on the Duties of his office he shall take an oath faithfully to execute the duties of a President of the United States.—He shall be removed from his office on impeachment by the house of Delegates & Conviction in the Supreme Court of Treason bribery or Corruption—In case of his removal death resignation or disability the President of the Senate shall exercise the duties of his office until another President be chosen—& in case of the death of the President of the Senate the Speaker of the House of Delegates shall do so.

9

The Legislature of the United States shall have the Power and it shall be their duty to establish such Courts of Law Equity & Admiralty as shall be necessary—The Judges of the Courts shall hold their offices during good behaviour & receive a compensation, which shall not be increased or diminished during their continuance in office—One of these

Courts shall be termed the Supreme Court whose jurisdiction shall extend to all cases arising under the laws of the United States or affecting ambassadors other public Ministers & Consuls—to the trial of impeachment of officers of the United States—to all cases of Admiralty & maritime jurisdiction—In cases of impeachment affecting ambassadors and other public Ministers this Jurisdiction shall be original & in all other cases appellate——

All criminal offences (except in cases of impeachment) shall be tried in the State where they shall be committed—the trials shall be open & public & shall be by Jury.

10

Immediately after the first census of the people of the United States the House of Delegates shall apportion the Senate by electing for each State out of the citizens resident therein one Senator for every ——— members each State shall have in the House of Delegates—Each State shall be entitled to have at least one member in the Senate.

11

No State shall grant letters of marque & reprisal or enter into treaty or alliance or confederation nor grant any title of nobility nor without the Consent of the Legislature of the United States lay any impost on imports—nor keep troops or Ships of War in time of peace—nor enter into compacts with other States or foreign powers or emit bills of Credit or

make any thing but Gold Silver or Copper a tender in payment of debts nor engage in War except for self defence when actually invaded or the danger of invasion be so great as not to admit of a delay until the Government of the United States can be informed thereof—& to render these prohibitions effectual the Legislature of the United States shall have the power to revise the laws of the several States that may be supposed to infringe the Powers exclusively delegated by this Constitution to Congress & to negative & annul such as do.

12

The Citizens of each State shall be entitled to all privileges & immunities of Citizens in the several States—Any person charged with Crimes in any State fleeing from justice to another shall on demand of the Executive of the State from which he fled be delivered up & removed to the State having jurisdiction of the offence.

13

Full faith shall be given in each State to the acts of the Legislature & to the records & judicial Proceedings of the Courts & magistrates of every State.

14

The Legislature shall have power to admit new States into the Union on the same terms with the original States provided two thirds of the members present in both Houses agree.

15

On the application of the legislature of a State the United States shall protect it against domestic insurrection.

16

If two thirds of the Legislatures of the States apply for the same the Legislature of the United States shall call a Convention for the purpose of amending the Constitution — or should Congress, with the Consent of two thirds of each house, propose to the States amendments to the same—the agreement of two thirds of the Legislatures of the States shall be sufficient to make the said amendments parts of the Constitution.

The Ratification of the conventions of ——— States shall be sufficient for organizing this Constitution.[1] Adjourned.

[1] ". . . What will be the result of their meeting I cannot with any certainty determine, but I hardly think much good can come of it; the people of America don't appear to me to be ripe for any great innovations & it seems they are ultimately to ratify or reject: the weight of Genl Washington as you justly observe is very great in America, but I hardly think it is sufficient to induce the people to pay money or part with power.

"The delegates from the Eastwd are for a very strong government, & wish to prostrate all ye State legislatures, & form a general system out of ye whole; but I don't learn that the people are with them, on ye contrary in Massachusetts they think that government too strong, & are about rebelling again, for the purpose of making it more democratical: In Connecticut they have rejected the requisition for ye present year decidedly, & no Man there would be elected to the office of a constable if he was to declare that he meant to pay a copper towards the domestic debt:—R. Island has refused to send members—the cry there is for a good government after they have paid their debts

WEDNESDAY MAY 30.

Roger Sherman (from Connecticut) took his seat.

The House went into Committee of the Whole on the State of the Union. Mr. Gorham was elected to the Chair by Ballot.

The propositions of Mr. Randolph which had been referred to the Comittee being taken up. He moved on the suggestion of Mr. G. Morris, that the first of his propositions to wit "Resolved that the articles of Confederation ought to be so corrected & enlarged, as to accomplish the objects proposed by their institution; namely, common defence, security of liberty, and general welfare,—should be postponed, in order to consider the 3 following:

1. that a union of the States merely federal will not accomplish the objects proposed by the articles of Confederation, namely common defence, security of liberty, & gen[l] welfare.

2. that no treaty or treaties among the whole or

in depreciated paper:—first demolish the Philistines (i. e. their creditors) then for *propiety*.

"N. Hampshire has not paid a shilling, since peace, & does not ever mean to pay on to all eternity:—if it was attempted to tax the people for y[e] domestic debt 500 Shays would arise in a fortnight.—In N. York they pay well because they can do it by plundering N. Jersey & Connecticut.—Jersey will go great lengths from motives of revenge and Interest: Pensylvany will join provided you let the sessions of the Executive of America be fixed in Philad[a] & give her other advantages in trade to compensate for the loss of State power. I shall make no observations on the Southern States, but I think they will be (perhaps from different motives) as little disposed to part with efficient power as any in the Union. . . ."—William Grayson to James Monroe, New York, May 29, 1787. *Monroe MSS.*

part of the States, as individual Sovereignties, would be sufficient.

3. that a *national* Government ought to be established consisting of a *supreme* Legislative, Executive & Judiciary.

The motion for postponing was seconded by Mr. Govr. Morris and unanimously agreed to.

Some verbal criticisms were raised ag^st. the first proposition, and it was agreed on motion of Mr. Butler seconded by Mr. Randolph, to pass on to the third, which underwent a discussion, less however on its general merits than on the force and extent of the particular terms *national* & *supreme*.

Mr. Charles Pinkney wished to know of Mr. Randolph, whether he meant to abolish the State Govern^ts. altogether. Mr. R. replied that he meant by these general propositions merely to introduce the particular ones which explained the outlines of the system he had in view.

Mr. Butler said he had not made up his mind on the subject, and was open to the light which discussion might throw on it. After some general observations he concluded with saying that he had opposed the grant of powers to Cong^s. heretofore, because the whole power was vested in one body. The proposed distribution of the powers into different bodies changed the case, and would induce him to go great lengths.

Genl. Pinkney[1] expressed a doubt whether the act

[1] "Mr. Ch^s. Cotesworth Pinckney is a Gentleman of Family and fortune in his own State. He has received the advantage of a liberal

of Cong^s recomending the Convention, or the Commissions of the Deputies to it, could authorize a discussion of a system founded on different principles from the federal Constitution.

Mr Gerry[1] seemed to entertain the same doubt.

Mr Govr Morris explained the distinction between a *federal* and *national, supreme*, Gov^t; the former being a mere compact resting on the good faith of the parties; the latter having a compleat and *compulsive* operation. He contended that in all Communities there must be one supreme power, and one only.

Mr Mason observed that the present confederation was not only deficient in not providing for coercion & punishment ag^st delinquent States; but argued very cogently that punishment could not in the nature of things be executed on the States collectively, and therefore that such a Gov^t was necessary as could directly operate on individuals, and would punish those only whose guilt required it.

education, and possesses a very extensive degree of legal knowledge. When warm in a debate he sometimes speaks well,—but he is generally considered an indifferent Orator. Mr. Pinckney was an Officer of high rank in the American Army, and served with great reputation through the War. He is now about 40 years of age."—Pierce's Notes, *Am. Hist. Rev.*, iii., 333.

[1] "Mr Gerry's character is marked for integrity and perseverance. He is a hesitating and laborious speaker;—possesses a great degree of confidence and goes extensively into all subjects that he speaks on, without respect to elegance or flower of diction. He is connected and sometimes clear in his arguments, conceives well, and cherishes as his first virtue, a love for his Country. Mr. Gerry is very much of a Gentleman in his principles and manners;—he has been engaged in the mercantile line and is a Man of property. He is about 37 years of age."—Pierce's Notes, *Id.*, iii., 325.

Mr. Sherman[1] who took his seat today, admitted that the Confederation had not given sufficient power to Congs. and that additional powers were necessary; particularly that of raising money which he said would involve many other powers. He admitted also that the General & particular jurisdictions ought in no case to be concurrent. He seemed however not to be disposed to make too great inroads on the existing system; intimating as one reason, that it would be wrong to lose every amendment, by inserting such as would not be agreed to by the States.

It was moved by Mr. Read,[2] 2ded. by Mr. Chs.

[1] "Mr. Sherman exhibits the oddest shaped character I ever remember to have met with. He is awkward, un-meaning, and unaccountably strange in his manner. But in his train of thinking there is something regular, deep, and comprehensive; yet the oddity of his address, the vulgarisms that accompany his public speaking, and that strange new England cant which runs through his public as well as his private speaking make everything that is connected with him grotesque and laughable;—and yet he deserves infinite praise,—no Man has a better Heart or a clearer Head. If he cannot embellish he can furnish thoughts that are wise and useful. He is an able politician and extremely artful in accomplishing any particular object;—it is remarked that he seldom fails. I am told he sits on the Bench in Connecticut, and is very correct in the discharge of his Judicial functions. In the early part of his life he was a Shoe-maker;—but despising the lowness of his condition, he turned Almanack maker, and so progressed upwards to a Judge. He has been several years a Member of Congress, and discharged the duties of his Office with honor and credit to himself, and advantage to the State he represented. He is about 60."—Pierce's Notes, *Am. Hist. Rev.*, iii., 326.

[2] "Mr. Read is a Lawyer and a Judge;—his legal abilities are said to be very great, but his powers of Oratory are fatiguing and tiresome to the last degree;—his voice is feeble and his articulation so bad that few can have patience to attend to him. He is a very good Man, and bears an amiable character with those who know him. Mr. Read is about 50, of a low stature, and a weak constitution."—Pierce's Notes, *Id.*, iii., 330.

Cotesworth Pinkney, to postpone the 3d proposition last offered by Mr Randolph viz that a national Government ought to be established consisting of a supreme Legislative Executive and Judiciary, in order to take up the following,—viz. "Resolved that in order to carry into execution the Design of the States in forming this Convention, and to accomplish the objects proposed by the Confederation a more effective Government consisting of a Legislative, Executive and Judiciary, ought to be established." The motion to postpone for this purpose was lost:

Yeas Massachusetts, Connecticut, Delaware, S. Carolina—4 Nays. N. Y. Pennsylvania, Virginia, North Carolina—4.

On the question as moved by Mr Butler, on the third proposition it was resolved in Committee of whole that a national governt ought to be established consisting of a supreme Legislative Executive & Judiciary,—Masstts being ay—Connect.—no. N. York divided (Col. Hamilton ay Mr Yates no) Pena ay. Delaware ay. Virga ay. N. C. ay. S. C. ay.

The following Resolution, being the 2d of those proposed by Mr Randolph was taken up, viz.—"that the rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases."

Mr Madison[1] observing that the words, "*or to the*

[1] "Mr. Maddison is a character who has long been in public life; and what is very remarkable every Person seems to acknowledge

number of free inhabitants," might occasion debates which would divert the Committee from the general question whether the principle of representation should be changed, moved that they might be struck out.

Mr. King observed that the quotas of contribution which would alone remain as the measure of representation, would not answer, because waving every other view of the matter, the revenue might hereafter be so collected by the General Gov.t that the sums respectively drawn from the States would not appear, and would besides be continually varying.

Mr. Madison admitted the propriety of the observation, and that some better rule ought to be found.

Col. Hamilton moved to alter the resolution so as to read "that the rights of suffrage in the national Legislature ought to be proportioned to the number of free inhabitants." Mr. Spaight 2ded the motion.

his greatness. He blends together the profound politician, with the Scholar. In the management of every great question he evidently took the lead in the Convention, and tho' he cannot be called an Orator, he is a most agreeable, eloquent, and convincing Speaker. From a spirit of industry and application which he possesses in a most eminent degree, he always comes forward the best informed Man of any point in debate. The affairs of the United States, he perhaps, has the most correct knowledge of, of any Man in the Union. He has been twice a Member of Congress, and was always thought one of the ablest Members that ever sat in that Council. Mr. Maddison is about 37 years of age, a Gentleman of great modesty,—with a remarkable sweet temper. He is easy and unreserved among his acquaintance, and has a most agreeable style of conversation."—Pierce's Notes, *Am. Hist. Rev.*, iii., 331.

It was then moved that the Resolution be postponed, which was agreed to.

Mr. Randolph and Mr. Madison then moved the following resolution—"that the rights of suffrage in the national Legislature ought to be proportioned."

It was moved and 2ded. to amend it by adding "and not according to the present system"—which was agreed to.

It was then moved & 2ded. to alter the resolution so as to read "that the rights of suffrage in the national Legislature ought not to be according to the present system."

It was then moved & 2ded. to postpone the Resolution moved by Mr. Randolph & Mr. Madison, which being agreed to:

Mr. Madison, moved, in order to get over the difficulties, the following resolution—"that the equality of suffrage established by the articles of Confederation ought not to prevail in the national Legislature, and that an equitable ratio of representation ought to be substituted." This was 2ded. by Mr. Gov. Morris, and being generally relished, would have been agreed to; when,

Mr. Reed moved that the whole clause relating to the point of Representation be postponed; reminding the Comes. that the deputies from Delaware were restrained by their comission from assenting to any change of the rule of suffrage, and in case such a change should be fixed on, it might become their duty to retire from the Convention.

Mr. Gov. Morris observed that the valuable assis-

tance of those members could not be lost without real concern, and that so early a proof of discord in the Convention as the secession of a State, would add much to the regret; that the change proposed was however so fundamental an article in a national Gov^{t}, that it could not be dispensed with.

Mr Madison observed that whatever reason might have existed for the equality of suffrage when the Union was a federal one among sovereign States, it must cease when a National Governm^{t} should be put into the place. In the former case, the acts of Cong^{s} depended so much for their efficacy on the cooperation of the States, that these had a weight both within & without Congress, nearly in proportion to their extent and importance. In the latter case, as the acts of the Genl Gov^{t} would take effect without the intervention of the State legislatures, a vote from a small State w^{d} have the same efficacy & importance as a vote from a large one, and there was the same reason for different numbers of representatives from different States, as from Counties of different extents within particular States. He suggested as an expedient for at once taking the sense of the members on this point and saving the Delaware deputies from embarrassment, that the question should be taken in Committee, and the clause on report to the House, be postponed without a question there. This however did not appear to satisfy Mr. Read.

By several it was observed that no just construction of the Act of Delaware, could require or justify a secession of her deputies, even if the resolution were

to be carried thro' the House as well as the Committee. It was finally agreed however that the clause should be postponed: it being understood that in the event the proposed change of representation would certainly be agreed to, no objection or difficulty being started from any other quarter than from Delaware.

The motion of Mr. Read to postpone being agreed to,

The Committee then rose. The Chairman reported progress, and the House having resolved to resume the subject in Committee to-morrow,

Adjourned to 10 O Clock.

THURSDAY MAY 31[1]

William Pierce, from Georgia took his seat.[2]

In Committee of the whole on Mr. Randolph's propositions.

The 3d Resolution "that the national Legislature

[1] "This day the state of New Jersey was represented, so that there were now ten states in Convention."—Yates, *Secret Proceedings*, etc., 99. But in the *Journal of the Federal Convention* (1819), as in Madison's account, New Jersey is entered as present May 25th. On May 30 two votes are recorded by Madison and in the *Journal* without New Jersey. It is probable that an error was made in the *Journal* and that Madison followed it.

[2] Rufus King kept a few notes of the proceedings of the convention from May 31st to August 8th. They are meagre, but corroborate Madison's report. See King's *Life and Correspondence of Rufus King*, i., 587.

Pierce also kept a few rough notes of the proceedings which were printed in the *Savannah Georgian* April 19, 21, 22, 23, 24, 25, 26, and 28, 1828, and reprinted in *The American Historical Review*, iii., 317 *et seq.* They throw little additional light on the debates, but wherever they do are quoted here, as are King's.

ought to consist of two branches" was agreed to without debate or dissent, except that of Pennsylvania, given probably from complaisance to Doc^r. Franklin who was understood to be partial to a single House of Legislation.

Resol: 4. first clause, "that the members of the first branch of the National Legislature ought to be elected by the people of the several States," being taken up,

M^r. Sherman opposed the election by the people, insisting that it ought to be by the State Legislatures. The people he said, immediately should have as little to do as may be about the Government. They want information and are constantly liable to be misled.

M^r. Gerry. The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots. In Mass^ts it had been fully confirmed by experience that they are daily misled into the most baneful measures and opinions by the false reports circulated by designing men, and which no one on the spot can refute. One principal evil arises from the want of due provision for those employed in the administration of Governm^t. It would seem to be a maxim of democracy to starve the public servants. He mentioned the popular clamour in Mass^ts for the reduction of salaries and the attack made on that of the Govr. though secured by the spirit of the Constitution itself. He had he said been too republican heretofore: he was still however republican,

but had been taught by experience the danger of the levelling spirit.

Mr Mason argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of the Govt It was, so to speak, to be our House of Commons—It ought to know & sympathize with every part of the community; and ought therefore to be taken not only from different parts of the whole republic, but also from different districts of the larger members of it, which had in several instances particularly in Virga, different interests and views arising from difference of produce, of habits &c &c. He admitted that we had been too democratic but was afraid we sd incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity & policy, considering that however affluent their circumstances, or elevated their situations, might be, the course of a few years, not only might but certainly would, distribute their posterity throughout the lowest classes of Society. Every selfish motive therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights and happiness of the lowest than of the highest orders of Citizens.

Mr Wilson contended strenuously for drawing the most numerous branch of the Legislature immediately from the people. He was for raising the federal

pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican Government this confidence was peculiarly essential. He also thought it wrong to increase the weight of the State Legislatures by making them the electors of the national Legislature. All interference between the general and local Governm^{ts} should be obviated as much as possible. On examination it would be found that the opposition of States to federal measures had proceeded much more from the officers of the States, than from the people at large.

Mr Madison considered the popular election of one branch of the national Legislature as essential to every plan of free Government. He observed that in some of the States one branch of the Legislature was composed of men already removed from the people by an intervening body of electors. That if the first branch of the general legislature should be elected by the State Legislatures, the second branch elected by the first—the Executive by the second together with the first; and other appointments again made for subordinate purposes by the Executive, the people would be lost sight of altogether; and the necessary sympathy between them and their rulers and officers, too little felt. He was an advocate for the policy of refining the popular appointments by successive filtrations, but thought it might be pushed too far. He wished the expedient to be

resorted to only in the appointment of the second branch of the Legislature, and in the Executive & judiciary branches of the Government. He thought too that the great fabric to be raised would be more stable and durable, if it should rest on the solid foundation of the people themselves, than if it should stand merely on the pillars of the Legislatures.

Mr. Gerry did not like the election by the people. The maxims taken from the British Constitution were often fallacious when applied to our situation which was extremely different. Experience he said had shewn that the State legislatures drawn immediately from the people did not always possess their confidence. He had no objection however to an election by the people if it were so qualified that men of honor & character might not be unwilling to be joined in the appointments. He seemed to think the people might nominate a certain number out of which the State legislatures should be bound to choose.[1]

Mr. Butler thought an election by the people an impracticable mode.

On the question for an election of the first branch of the national Legislature, by the people,

Mass.ts ay. Connect. div.d N. York ay. N. Jersey no. Pen.a ay. Delaw.r div.d V.a ay. N. C. ay. S. C. no. Georg.a ay.

The remaiñg Clauses of Resolution 4th relating

[1] "Mr. Strong would agree to the principle, provided it would undergo a certain modification, but pointed out nothing."—Pierce's Notes, *Am. Hist. Rev.*, iii., 318.

to the qualifications of members of the National Legislature, being posp.d nem. con., as entering too much into detail for general propositions;

The Committee proceeded to Resolution 5. "that the second, (or senatorial) branch of the National Legislature ought to be chosen by the first branch out of persons nominated by the State Legislatures."

Mr. Spaight contended that the 2.d branch ought to be chosen by the State Legislatures and moved an amendment to that effect.[1]

Mr. Butler apprehended that the taking so many powers out of the hands of the States as was proposed, tended to destroy all that balance and security of interests among the States which it was necessary to preserve; and called on Mr. Randolph the mover of the propositions, to explain the extent of his ideas, and particularly the number of members he meant to assign to this second branch.

Mr. Rand.f observed that he had at the time of offering his propositions stated his ideas as far as the nature of general propositions required; that details made no part of the plan, and could not perhaps with propriety have been introduced. If he was to give an opinion as to the number of the second branch, he should say that it ought to be much smaller than that of the first; so small as to be exempt from the passionate proceedings to which

[1] "Mr. King observed that the Question called for was premature, and out of order,—that unless we go on regularly from one principle to the other we shall draw out our proceedings to an endless length."—Pierce's Notes, *Am. Hist. Rev.*, iii., 318.

numerous assemblies are liable. He observed that the general object was to provide a cure for the evils under which the U. S. laboured; that in tracing these evils to their origin every man had found it in the turbulance and follies of democracy: that some check therefore was to be sought for ag^st^ this tendency of our Governments: and that a good Senate seemed most likely to answer the purpose.[1]

Mr King reminded the Committee that the choice of the second branch as proposed (by Mr Spaight) viz. by the State Legislatures would be impracticable, unless it was to be very numerous, or *the idea of proportion* among the States was to be disregarded. According to this *idea*, there must be 80 or 100 members to entitle Delaware to the choice of one of them.—Mr Spaight withdrew his motion.

Mr Wilson opposed both a nomination by the State Legislatures, and an election by the first branch of the national Legislature, because the second branch of the latter, ought to be independent of both. He thought both branches of the National Legislature ought to be chosen by the people, but was not prepared with a specific proposition. He suggested the mode of chusing the Senate of N. York to wit of uniting several election districts for one branch, in chusing members for the other branch, as a good model.

Mr Madison observed that such a mode would

[1] "Butler said that until the number of the Senate could be known it would be impossible for him to give a vote on it."—Pierce's Notes, *Am. Hist. Rev.*, iii., 318.

destroy the influence of the smaller States associated with larger ones in the same district; as the latter would chuse from within themselves, altho' better men might be found in the former. The election of Senators in Virg^a. where large & small counties were often formed into one district for the purpose, had illustrated this consequence. Local partiality, would often prefer a resident within the County or State, to a candidate of superior merit residing out of it. Less merit also in a resident would be more known throughout his own State.[1]

M^r. Sherman favored an election of one member by each of the State Legislatures.[2]

M^r. Pinkney moved to strike out the "nomination by the State Legislatures;" on this question.

[3] Mass^ts. no. Con^t. no. N. Y. no. N. J. no. Pen^a.

[1] "M^r. Butler moved to have the proposition relating to the first branch postponed, in order to take up another,—which was that the second branch of the Legislature consist of blank.

"M^r. King objected to the postponement for the reasons which he had offered before."—Pierce's Notes, *Am. Hist. Rev.*, iii., 319.

[2] According to Pierce, Mason spoke after Sherman, and Pinckney's motion is given more fully by Pierce than by Madison.

"M^r. Mason was of opinion that it would be highly improper to draw the Senate out of the first branch; that it would occasion vacancies which would cost much time, trouble, and expense to have filled up,—besides which it would make the members too dependent on the first branch.

"M^r. Ch^s. Pinckney said he meant to propose to divide the Continent into four Divisions, out of which a certain number of persons sh^d. be nominated, and out of that nomination to appoint a senate."—Pierce's Notes, *Id.*, iii., 319.

[3] This question is omitted in the printed Journal, & the votes applied to the succeeding one, instead of the votes as here stated.—Madison's note.

no. Del. div^{d} V^{a} no. N. C. no. S. C. no Georg no.

On the whole question for electing by the first branch out of nominations by the State Legislatures, Mass. ay. Con^{t} no. N. Y. no. N. Jersey, no. Pen^{a} no. Del. no. Virg^{a} ay. N. C. no. S. C, ay, G^{a} no.

So the clause was disagreed to & a chasm left in this part of the plan.

The sixth Resolution stating the cases in which the national Legislature ought to legislate was next taken into discussion: On the question whether each branch sh^{d} originate laws, there was an unanimous affirmative without debate. On the question for transferring all the Legislative power of the existing Cong^{s} to this Assembly, there was also a silent affirmative nem. con.

On the proposition for giving "Legislative power in all cases to which the State Legislatures were individually incompetent,"

Mr Pinkney & Mr Rutledge[1] objected to the vagueness of the term *incompetent*, and said they could not well decide how to vote until they should

[1] "Mr. Rutledge is one of those characters who was highly mounted at the commencement of the late revolution;—his reputation in the first Congress gave him a distinguished rank among the American Worthies. He was bred to the Law, and now acts as one of the Chancellors of South Carolina. This Gentleman is much famed in his own State as an Orator, but in my opinion he is too rapid in his public speaking to be denominated an agreeable Orator. He is undobotedly a man of abilities, and a Gentleman of distinction and fortune. Mr. Rutledge was once Governor of South Carolina. He is about 48 years of age."—Pierce's Notes, *Amer. Hist. Rev.*, iii., 333.

see an exact enumeration of the powers comprehended by this definition.[1]

Mr. Butler repeated his fears that we were running into an extreme in taking away the powers of the States, and called on Mr. Randolph for the extent of his meaning.

Mr. Randolph disclaimed any intention to give indefinite powers to the national Legislature, declaring that he was entirely opposed to such an inroad on the State jurisdictions, and that he did not think any considerations whatever could ever change his determination. His opinion was fixed on this point.

Mr. Madison said that he had brought with him

[1] According to Pierce:

"Mr Sherman was of opinion that it would be too indefinitely expressed,—and yet it would be hard to define all the powers by detail. It appeared to him that it would be improper for the national Legislature to negative all the Laws that were connected with the States themselves.

"Mr. Maddison said it was necessary to adopt some general principles on which we should act,—that we were wandering from one thing to another without seeming to be settled in any one principle.

"Mr. Wythe observed that it would be right to establish general principles before we go into detail, or very shortly Gentlemen would find themselves in confusion, and would be obliged to have recurrence to the point from whence they sat out.

"Mr. King was of opinion that the principles ought first to be established before we proceed to the framing of the Act. He apprehends that the principles only go so far as to embrace all the power that is given up by the people to the Legislature, and to the federal Government, but no farther.

"Mr. Randolph was of opinion that it would be impossible to define the powers and the length to which the federal Legislature ought to extend just at this time.

"Mr. Wilson observed that it would be impossible to enumerate the powers which the federal Legislature ought to have."—Pierce's Notes, *Amer. Hist. Rev.*, iii., 319, 320.

into the Convention a strong bias in favor of an enumeration and definition of the powers necessary to be exercised by the national Legislature; but had also brought doubts concerning its practicability. His wishes remained unaltered; but his doubts had become stronger. What his opinion might ultimately be he could not yet tell. But he should shrink from nothing which should be found essential to such a form of Gov^t as would provide for the safety, liberty and happiness of the community. This being the end of all our deliberations, all the necessary means for attaining it must, however reluctantly, be submitted to.

On the question for giving powers, in cases to which the States are not competent—Mass^ts ay. Con^t div^d (Sherman no Elseworth ay) N. Y. ay. N. J. ay. P^a ay. Del. ay. V^a ay. N. C. ay. S. Carolina ay. Georg^a ay.

The other clauses giving powers necessary to preserve harmony among the States to negative all State laws contravening in the opinion of the Nat. Leg. the articles of union, down to the last clause, (the words "or any treaties subsisting under the authority of the Union," being added after the words "contravening &c. the articles of the Union," on motion of Dr Franklin) were agreed to with^t debate or dissent.

The last clause of Resolution 6, authorizing an exertion of the force of the whole ag^st a delinquent State came next into consideration.

Mr Madison, observed that the more he reflected

on the use of force, the more he doubted, the practicability, the justice and the efficacy of it when applied to people collectively and not individually.—A union of the States containing such an ingredient seemed to provide for its own destruction. The use of force ag^st^ a State, would look more like a declaration of war, than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as might render this resource unnecessary, and moved that the clause be postponed. This motion was agreed to, nem. con.

The Committee then rose & the House

Adjourned.[1]

FRIDAY JUNE 1ST 1787

William Houston from Georgia took his seat.

The Committee of the whole proceeded to Resolu-

[1] "When the Convention first opened at Philadelphia, there were a number of propositions brought forward as great leading principles for the new Government to be established for the United States. A copy of these propositions was given to each Member with an injunction to keep everything a profound secret. One morning, by accident, one of the Members dropt his copy of the propositions, which being luckily picked up by General Mifflin was presented to General Washington, our President, who put it in his pocket. After the debates of the Day were over, and the question for adjournment was called for, the General arose from his seat, and previous to his putting the question addressed the Convention in the following manner,—

"'Gentlemen

"'I am sorry to find that some one Member of this Body, has been

tion 7. "that a national Executive be instituted, to be chosen by the national Legislature for the term of ——— years &c to be ineligible thereafter, to possess the Executive powers of Congress &c."

Mr. Pinkney was for a vigorous Executive but was afraid the Executive powers of the existing Congress might extend to peace & war &c which would render the Executive a monarchy, of the worst kind, to wit an elective one.

Mr. Wilson moved that the Executive consist of a single person. Mr. C. Pinkney seconded the motion, so as to read "that a National Ex. to consist of a single person, be instituted.

A considerable pause ensuing and the Chairman[1] asking if he should put the question, Doctr. Franklin

so neglectful of the secrets of the Convention as to drop in the State House, a copy of their proceedings, which by accident was picked up and delivered to me this Morning. I must entreat Gentlemen to be more careful, lest our transactions get into the News Papers, and disturb the public repose by premature speculations. I know not whose Paper it is, but there it is [throwing it down on the table,] let him who owns it take it.' At the same time he bowed, picked up his Hat, and quitted the room with a dignity so severe that every Person seemed alarmed; for my part I was extremely so, for putting my hand in my pocket I missed my copy of the same Paper, but advancing up to the Table my fears soon dissipated; I found it to be in the hand writing of another Person. When I went to my lodgings at the Indian Queen, I found my copy in a coat pocket which I had pulled off that Morning. It is something remarkable that no Person ever owned the Paper."—Pierce's Notes, *Am. Hist. Rev.*, iii., 324.

[1] "Dr Franklin is well known to be the greatest phylosopher of the present age;—all the operations of nature he seems to understand,—the very heavens obey him, and the Clouds yield up their Lightning to be imprisoned in his rod. But what claim he has to the politician, posterity must determine. It is certain that he does not shine much in public Council,—he is no Speaker, nor does he seem to let politics engage his attention. He is, however, a most extraordinary Man, and

observed that it was a point of great importance and wished that the gentlemen would deliver their sentiments on it before the question was put.

Mr. Rutlidge animadverted on the shyness of gentlemen on this and other subjects. He said it looked as if they supposed themselves precluded by having frankly disclosed their opinions from afterwards changing them, which he did not take to be at all the case. He said he was for vesting the Executive power in a single person, tho' he was not for giving him the power of war and peace. A single man would feel the greatest responsibility and administer the public affairs best.

Mr. Sherman said he considered the Executive magistracy as nothing more than an institution for carrying the will of the Legislature into effect, that the person or persons ought to be appointed by and accountable to the Legislature only, which was the depository of the supreme will of the Society. As they were the best judges of the business which ought to be done by the Executive department, and consequently of the number necessary from time to time for doing it, he wished the number might not be fixed, but that the legislature should be at liberty to appoint one or more as experience might dictate.

Mr. Wilson preferred a single magistrate, as giving

he tells a story in a style more engaging than anything I ever heard. Let his Biographer finish his character. He is 82 years old, and possesses an activity of mind equal to a youth of 25 years of age."—Pierce's Notes, *Amer. Hist. Rev.*, iii., 328.

most energy dispatch and responsibility to the office. He did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers. Some of these prerogatives were of a Legislative nature. Among others that of war & peace &c. The only powers he considered strictly Executive were those of executing the laws, and appointing officers, not appertaining to and appointed by the Legislature.[1]

Mr. Gerry favored the policy of annexing a Council to the Executive in order to give weight & inspire confidence.[2]

Mr. Randolph strenuously opposed a unity in the Executive magistracy. He regarded it as the fœtus of monarchy. We had he said no motive to be governed by the British Govenmt. as our prototype. He did not mean however to throw censure on that Excellent fabric. If we were in a situation to copy it he did not know that he should be opposed to it;

[1] According to King, Madison followed Wilson: "Madison agreed with Wilson in the Definition of Executive power. *Ex vi termini.* Executive power does not include the Power of War and Peace. Executive Power shd. be limited and defined. If large, we shall have the Evils of Elective Monarchies. Perhaps the best plan will be a single Executive of long duration, with a Council and with Liberty to dissent on his personal Responsibility."—King's *Life and Correspondence of Rufus King*, i., 588.

According to Pierce:

"Mr. Maddison was of opinion that an Executive formed of one Man would answer the purpose when aided by a Council, who should have the right to advise and record their proceedings, but not to control his authority."—Pierce's Notes, *Am. Hist. Rev.*, iii., 320.

[2] King gives Gerry's remarks: "*Gerry.* I am in favor of a Council to advise the Executive: they will be organs of information respecting Persons qualified for various offices. Their opinions may be recorded, so as to be liable to be called to account & impeached—in this way,

but the fixt genius of the people of America required a different form of Government. He could not see why the great requisites for the Executive department, vigor, dispatch & responsibility could not be found in three men, as well as in one man. The Executive ought to be independent. It ought therefore in order to support its independence to consist of more than one.

Mr. Wilson said that unity in the Executive instead of being the fetus of monarchy would be the best safeguard against tyranny. He repeated that he was not governed by the British Model which was inapplicable to the situation of this Country; the extent of which was so great, and the manners so

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their Responsibility will be certain, and for misconduct their Punishment sure."

Dickinson followed Gerry: "*Dickinson.* A limited yet vigorous Executive is not republican, but peculiar to monarchy—the royal Executive has vigour, not only by power, but by popular Attachment & Report—an Equivalent to popular Attachment may be derived from the Veto on the Legislative acts. We cannot have a limited monarchy—our condition does not permit it. Republics are in the beginning and for a time industrious, but they finally destroy themselves because they are badly constituted. I dread the consolidation of the States, & hope for a good national Govt. from the present Division of the States with a feeble Executive.

"We are to have a Legislature of two branches, or two Legislatures, as the sovereign of the nation—this will work a change unless you provide that the judiciary shall aid and correct the Executive. The first Branch of the Legislature, the H. of Representatives, must be on another plan. The second Branch or Senate may be on the present scheme of representing *the States*—the Representatives to be apportioned according to the Quotas of the States paid into the general Treasury. The Executive to be removed from office by the national Legislature, on the Petition of seven States."—King's *Life and Correspondence of Rufus King*, i., 588 *et seq.*

republican, that nothing but a great confederated Republic would do for it.

Mr. Wilson's motion for a single magistrate was postponed by common consent, the Committee seeming unprepared for any decision on it; and the first part of the clause agreed to, viz—"that a National Executive be instituted."[1]

Mr. Madison thought it would be proper, before a choice shd. be made between a unity and a plurality in the Executive, to fix the extent of the Executive authority; that as certain powers were in their nature Executive, and must be given to that departmt. whether administered by one or more persons, a definition of their extent would assist the judgment in determining how far they might be safely entrusted to a single officer. He accordingly moved that so much of the clause before the Committee as related to the powers of the Executive shd. be struck out & that after the words "that a national Executive ought to be instituted" there be inserted the words following viz. "with power to carry into effect the national laws, to appoint to offices in cases not otherwise provided for, and to execute such other powers "not Legislative nor Judiciary in their nature," as may from time to time be delegated by the national Legislature." The words "not legislative nor judiciary in their nature" were added to the proposed amendment, in consequence

[1] Williamson followed Wilson, according to King: "*Williamson*—There is no true difference between an Executive composed of a single person, with a Council, and an Executive composed of three or more persons."—King's *Life and Correspondence of Rufus King*, i., 590.

of a suggestion by Gen.l Pinkney that improper powers might otherwise be delegated.

Mr. Wilson seconded this motion.

Mr. Pinkney moved to amend the amendment by striking out the last member of it; viz: "and to execute such other powers not Legislative nor Judiciary in their nature as may from time to time be delegated." He said they were unnecessary, the object of them being included in the "power to carry into effect the national laws."

Mr. Randolph seconded the motion.

Mr. Madison did not know that the words were absolutely necessary, or even the preceding words, "to appoint to offices &c. the whole being perhaps included in the first member of the proposition. He did not however see any inconveniency in retaining them, and cases might happen in which they might serve to prevent doubts and misconstructions.

In consequence of the motion of Mr. Pinkney, the question on Mr. Madison's motion was divided; and the words objected to by Mr. Pinkney struck out; by the votes of Connecticut, N. Y., N. J., Penn.a, Del., N. C., & Geo. ag.st Mass., Virg.a & S. Carolina the preceding part of the motion being first agreed to; Connecticut divided all the other States in the affirmative.

The next clause in Resolution 7, relating to the mode of appointing, & the duration of, the Executive being under consideration,

Mr. Wilson said he was almost unwilling to declare the mode which he wished to take place, being

apprehensive that it might appear chimerical. He would say however at least that in theory he was for an election by the people. Experience, particularly in N. York & Mass^{ts}, shewed that an election of the first magistrate by the people at large, was both a convenient & successful mode. The objects of choice in such cases must be persons whose merits have general notoriety.

Mr Sherman was for the appointment by the Legislature, and for making him absolutely dependent on that body, as it was the will of that which was to be executed. An independence of the Executive on the supreme Legislature, was in his opinion the very essence of tyranny if there was any such thing.

Mr Wilson moves that the blank for the term of duration should be filled with three years, observing at the same time that he preferred this short period, on the supposition that a re-eligibility would be provided for.

Mr Pinkney moves for seven years.

Mr Sherman was for three years, and agst the doctrine of rotation as throwing out of office the men best qualified to execute its duties.

Mr Mason was for seven years at least, and for prohibiting a re-eligibility as the best expedient both for preventing the effect of a false complaisance on the side of the Legislature towards unfit characters; and a temptation on the side of the Executive to intrigue with the Legislature for a re-appointment.

Mr Bedford[1] was strongly opposed to so long a

[1] "Mr. Bedford was educated for the Bar, and in his profession I am told, has merit. He is a bold and nervous Speaker, and has a very

term as seven years. He begged the Committee to consider what the situation of the Country would be, in case the first magistrate should be saddled on it for such a period and it should be found on trial that he did not possess the qualifications ascribed to him, or should lose them after his appointment. An impeachment he said would be no cure for this evil, as an impeachment would reach misfeasance only, not incapacity. He was for a triennial election, and for an ineligibility after a period of nine years.

On the question for seven years,

Mass.ts divid.d Con.t no. N. Y. ay. N. J. ay. Pen.a ay. Del. ay. Virg.a ay. N. C. no. S. C. no. Geor. no.

There being 5 ays, 4 noes, & 1 div.d, a question was asked whether a majority had voted in the Affirmative? The President decided that it was an affirmative vote.

The *mode of appointing* the Executive was the next question.

Mr. Wilson renewed his declarations in favor of an appointment by the people. He wished to derive not only both branches of the Legislature from the people, without the intervention of the State Legislatures but the Executive also; in order to make them as independent as possible of each other, as well as of the States;

Col. Mason favors the idea, but thinks it impractic-

commanding and striking manner;—but he is warm and impetuous in his temper, and precipitate in his judgment. Mr. Bedford is about 32 years old, and very corpulent."—Pierce's Notes, *Am. Hist. Rev.*, iii., 330.

able. He wishes however that Mr. Wilson might have time to digest it into his own form.—the clause, "to be chosen by the National Legislature"—was accordingly postponed.—

Mr. Rutlidge suggests an election of the Executive by the second branch only of the national Legislature.

The Committee then rose and the House

Adjourned.

SATURDAY JUNE 2d. IN COMMITTEE OF WHOLE

William Saml. Johnson from Connecticut, Daniel of St. Thomas Jenifer, from Maryd., & John Lansing Jr. from N. York, took their seats.

It was movd. & 2ded. to postpone ye Resol: of Mr. Randolph respecting the Executive, in order to take up the 2d. branch of the Legislature; which being negatived by Mas: Con: Del: Virg: N. C. S. C. Geo: agst. N. Y. Penna. Maryd. The mode of appointing the Executive was resumed.

Mr. Wilson made the following motion, to be substituted for the mode proposed by Mr. Randolph's resolution, "that the Executive Magistracy shall be elected in the following manner: That the States be divided into ——— districts: & that the persons qualified to vote in each district for members of the first branch of the national Legislature elect ——— members for their respective districts to be electors of the Executive Magistracy, that the said Electors of the Executive magistracy meet at ———

and they or any ——— of them so met shall proceed to elect by ballot, but not out of their own body ——— person— in whom the Executive authority of the national Government shall be vested."

Mr. Wilson repeated his arguments in favor of an election without the intervention of the States. He supposed too that this mode would produce more confidence among the people in the first magistrate, than an election by the national Legislature.

Mr. Gerry, opposed the election by the National legislature. There would be a constant intrigue kept up for the appointment. The Legislature & the candidates wd. bargain & play into one another's hands, votes would be given by the former under promises or expectations from the latter, of recompensing them by services to members of the Legislature or to their friends. He liked the principle of Mr. Wilson's motion, but fears it would alarm & give a handle to the State partizans, as tending to supersede altogether the State authorities. He thought the Community not yet ripe for stripping the States of their powers, even such as might not be requisite for local purposes. He was for waiting till the people should feel more the necessity of it. He seemed to prefer the taking the suffrages of the States, instead of Electors, or letting the Legislatures nominate, and the electors appoint. He was not clear that the people ought to act directly even in the choice of electors, being too little informed of personal characters in large districts, and liable to deceptions.

Mr. Williamson[1] could see no advantage in the introduction of Electors chosen by the people who would stand in the same relation to them as the State Legislatures, whilst the expedient would be attended with great trouble and expence.

On the question for agreeing to Mr. Wilson's substitute, it was negatived: Mass.ts no. Con.t no. N. Y.[2] no. Pa. ay. Del. no. Mar.d ay. Virg.a no. N. C. no. S. C. no. Geo.a no.

On the question for electing the Executive by the national Legislature for the term of seven years, it was agreed to, Mass.ts ay. Con.t ay. N. Y. ay. Pen.a no. Del. ay. Mary.d no. Va. ay. N. C. ay. S. C. ay. Geo. ay.

Doc.r Franklin moved that what related to the compensation for the services of the Executive be postponed, in order to substitute—"whose necessary expences shall be defrayed, but who shall receive no salary, stipend fee or reward whatsoever for their services." He said that being very sensible of the effect of age on his memory, he had been unwilling to trust to that for the observations which seemed to support his motion and had reduced them to writing, that he might with the permission of the Committee read instead of speaking them. Mr. Wilson made an offer to read the paper, which was

[1] "Mr. Williamson is a Gentleman of education and talents. He enters freely into public debate from his close attention to most subjects, but he is no Orator. There is a great degree of good humour and pleasantry in his character; and in his manners there is a strong trait of the Gentleman. He is about 48 years of age."—Pierce's Notes, *Amer. Hist. Rev.*, iii., 332.

[2] New York, in the printed Journal, divided.—Madison's note.

accepted. The following is a literal copy of the paper:

Sir,

It is with reluctance that I rise to express a disapprobation of any one article of the plan for which we are so much obliged to the honorable gentleman who laid it before us. From its first reading I have borne a good will to it, and in general wished it success. In this particular of salaries to the Executive branch I happen to differ; and as my opinion may appear new and chimerical, it is only from a persuasion that it is right, and from a sense of duty that I hazard it. The Committee will judge of my reasons when they have heard them, and their judgment may possibly change mine.—I think I see inconveniences in the appointment of salaries; I see none in refusing them, but on the contrary, great advantages.

Sir, there are two passions which have a powerful influence on the affairs of men. These are ambition and avarice; the love of power, and the love of money. Separately each of these has great force in prompting men to action; but when united in view of the same object, they have in many minds the most violent effects. Place before the eyes of such men, a post of *honour* that shall be at the same time a place of *profit*, and they will move heaven and earth to obtain it. The vast number of such places it is that renders the British Government so tempestuous. The struggles for them are the true sources of all those factions which are perpetually

dividing the Nation, distracting its Councils, hurrying sometimes into fruitless & mischievous wars, and often compelling a submission to dishonorable terms of peace.

And of what kind are the men that will strive for this profitable pre-eminence, through all the bustle of cabal, the heat of contention, the infinite mutual abuse of parties, tearing to pieces the best of characters? It will not be the wise and moderate, the lovers of peace and good order, the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits. These will thrust themselves into your Government and be your rulers.—And these too will be mistaken in the expected happiness of their situation: For their vanquished competitors of the same spirit, and from the same motives will perpetually be endeavouring to distress their administration, thwart their measures, and render them odious to the people.

Besides these evils, Sir, tho' we may set out in the beginning with moderate salaries, we shall find that such will not be of long continuance. Reasons will never be wanting for proposed augmentations. And there will always be a party for giving more to the rulers, that the rulers may be able in return to give more to them. Hence as all history informs us, there has been in every State & Kingdom a constant kind of warfare between the Governing & Governed; the one striving to obtain more for its support, and the other to pay less. And this has alone occasioned

great convulsions, actual civil wars, ending either in dethroning of the Princes, or enslaving of the people. Generally indeed the ruling power carries its point, the revenues of princes constantly increasing, and we see that they are never satisfied, but always in want of more. The more the people are discontented with the oppression of taxes; the greater need the prince has of money to distribute among his partizans and pay the troops that are to suppress all resistance, and enable him to plunder at pleasure. There is scarce a king in an hundred who would not, if he could, follow the example of Pharoah, get first all the people's money, then all their lands, and then make them and their children servants for ever. It will be said, that we don't propose to establish Kings. I know it. But there is a natural inclination in mankind to Kingly Government. It sometimes relieves them from Aristocratic domination. They had rather have one tyrant than five hundred. It gives more of the appearance of equality among Citizens, and that they like. I am apprehensive therefore, perhaps too apprehensive, that the Government of these States, may in future times, end in a Monarchy. But this Catastrophe I think may be long delayed, if in our proposed System we do not sow the seeds of contention, faction & tumult, by making our posts of honor, places of profit. If we do, I fear that tho' we do employ at first a number, and not a single person, the number will in time be set aside, it will only nourish the fœtus of a King, as the honorable gentleman from Virginia very aptly

expressed it, and a King will the sooner be set over us.

It may be imagined by some that this is an Utopian Idea, and that we can never find men to serve us in the Executive department, without paying them well for their services. I conceive this to be a mistake. Some existing facts present themselves to me, which incline me to a contrary opinion. The high Sheriff of a County in England is an honorable office, but it is not a profitable one. It is rather expensive and therefore not sought for. But yet, it is executed and well executed, and usually by some of the principal Gentlemen of the County. In France, the office of Counsellor, or Member of their Judiciary Parliaments is more honorable. It is therefore purchased at a high price: There are indeed fees on the law proceedings, which are divided among them, but these fees do not amount to more than three Per Cent on the sum paid for the place. Therefore as legal interest is there at five PerC^{t} they in fact pay two PerC^{t} for being allowed to do the Judiciary business of the Nation, which is at the same time entirely exempt from the burden of paying them any salaries for their services. I do not however mean to recommend this as an eligible mode for our Judiciary department. I only bring the instance to shew that the pleasure of doing good & serving their Country and the respect such conduct entitles them to, are sufficient motives with some minds to give up a great portion of their time to the Public, without the mean inducement of pecuniary satisfaction.

Another instance is that of a respectable Society who have made the experiment, and practised it with success more than one hundred years. I mean the Quakers. It is an established rule with them, that they are not to go to law; but in their controversies they must apply to their monthly, quarterly and yearly meetings. Committees of these sit with patience to hear the parties, and spend much time in composing their differences. In doing this, they are supported by a sense of duty, and the respect paid to usefulness. It is honorable to be so employed, but it is never made profitable by salaries, fees or perquisites. And indeed in all cases of Public service the less the profit the greater the honor.

To bring the matter nearer home, have we not seen, the great and most important of our offices, that of General of our armies executed for eight years together without the smallest salary, by a Patriot whom I will not now offend by any other praise; and this through fatigues and distresses in common with the other brave men his military friends & companions, and the constant anxieties peculiar to his station? And shall we doubt finding three or four men in all the U. States, with public spirit enough to bear sitting in peaceful Council for perhaps an equal term, merely to preside over our civil concerns, and see that our laws are duly executed. Sir, I have a better opinion of our Country. I think we shall never be without a sufficient number of wise and good men to undertake and execute well and faithfully the office in question.

Sir. The saving of the salaries that may at first be proposed is not an object with me. The subsequent mischiefs of proposing them are what I apprehend. And therefore it is, that I move the amendment. If it is not seconded or accepted I must be contented with the satisfaction of having delivered my opinion frankly and done my duty.

The motion was seconded by Col. Hamilton, with the view he said merely of bringing so respectable a proposition before the Committee, and which was besides enforced by arguments that had a certain degree of weight. No debate ensued, and the proposition was postponed for the consideration of the members. It was treated with great respect, but rather for the author of it, than from any apparent conviction of its expediency or practicability.

Mr Dickinson moved,[1] "that the Executive be made removable by the National Legislature on the request of a majority of the Legislatures of individual States." It was necessary he said to place the power of removing somewhere. He did not like the plan of impeaching the Great officers of State. He did

[1] "Mr. Dickinson has been famed through all America for his Farmers Letters; he is a Scholar, and said to be a Man of very extensive information. When I saw him in the Convention I was induced to pay the greatest attention to him whenever he spoke. I had often heard that he was a great Orator, but I found him an indifferent Speaker. With an affected air of wisdom he labors to produce a trifle,—his language is irregular and incorrect,—his flourishes, (for he sometimes attempts them,) are like expiring flames, they just shew themselves and go out;—no traces of them are left on the mind to chear or animate it. He is, however, a good writer and will be ever considered one of the most important characters in the United States. He is about 55 years old, and was bred a Quaker."—Pierce's Notes, *Am. Hist. Rev.*, iii., 329.

not know how provision could be made for removal of them in a better mode than that which he had proposed. He had no idea of abolishing the State Governments as some gentlemen seemed inclined to do. The happiness of this Country in his opinion required considerable powers to be left in the hands of the States.

Mr Bedford seconded the motion.

Mr Sherman contended that the national Legislature should have power to remove the Executive at pleasure.

Mr Mason. Some mode of displacing an unfit magistrate is rendered indispensable by the fallibility of those who choose, as well as by the corruptibility of the man chosen. He opposed decidedly the making the Executive the mere creature of the Legislature as a violation of the fundamental principle of good Government.

Mr Madison & Mr Wilson observed that it would leave an equality of agency in the small with the great States; that it would enable a minority of the people to prevent ye removal of an officer who had rendered himself justly criminal in the eyes of a majority; that it would open a door for intrigues agst him in States where his administration tho' just might be unpopular, and might tempt him to pay court to particular States whose leading partizans he might fear, or wish to engage as his partizans. They both thought it bad policy to introduce such a mixture of the State authorities, where their agency could be otherwise supplied.

Mr Dickinson considered the business as so important that no man ought to be silent or reserved. He went into a discourse of some length, the sum of which was, that the Legislative, Executive, & Judiciary departments ought to be made as independt as possible; but that such an Executive as some seemed to have in contemplation was not consistent with a republic: that a firm Executive could only exist in a limited monarchy. In the British Govt itself the weight of the Executive arises from the attachments which the Crown draws to itself, & not merely from the force of its prerogatives. In place of these attachments we must look out for something else. One source of stability is the double branch of the Legislature. The division of the Country into distinct States formed the other principal source of stability. This division ought therefore to be maintained, and considerable powers to be left with the States. This was the ground of his consolation for the future fate of his Country. Without this, and in case of a consolidation of the States into one great Republic, we might read its fate in the history of smaller ones. A limited Monarchy he considered as *one* of the best Governments in the world. It was not *certain* that the same blessings were derivable from any other form. It was certain that equal blessings had never yet been derived from any of the republican form. A limited Monarchy however was out of the question. The spirit of the times—the state of our affairs forbade the experiment, if it were

desireable. Was it possible moreover in the nature of things to introduce it even if these obstacles were less insuperable. A House of Nobles was essential to such a Gov.: could these be created by a breath, or by a stroke of the pen? No. They were the growth of ages, and could only arise under a complication of circumstances none of which existed in this Country. But though a form the most perfect *perhaps* in itself be unattainable, we must not despair. If antient republics have been found to flourish for a moment only & then vanish for ever, it only proves that they were badly constituted; and that we ought to seek for every remedy for their diseases. One of these remedies he conceived to be the accidental lucky division of this Country into distinct States; a division which some seemed desirous to abolish altogether.

As to the point of representation in the national Legislature as it might affect States of different sizes, he said it must probably end in mutual concession. He hoped that each State would retain an equal voice at least in one branch of the National Legislature, and supposed the sums paid within each State would form a better ratio for the other branch than either the number of inhabitants or the quantum of property.[1]

A motion being made to strike out, "on request

[1] According to Pierce: "Mr. Maddison said it was far from being his wish that every executive Officer should remain in Office, without being amenable to some Body for his conduct."—Pierce's Notes, *Am. Hist. Rev.*, iii., 321.

by a majority of the Legislatures of the individual States," and rejected, Connecticut, S. Carol: & Geo. being ay, the rest no: the question on Mr. Dickinson's motion for making Executive removable by Natl. Legislature at request of majority of State Legislatures was also rejected all the States being in the negative Except Delaware which gave an affirmative vote.

The Question for making ye. Executive ineligible after seven years, was next taken and agreed to: Masts. ay. Cont. no. N. Y. ay. Pa. divd. Del. ay. Maryd. ay. Va. ay. N. C. ay. S. C. ay. Geo. no.[1]

Mr. Williamson 2ded by Mr. Davie[2] moved to add to the last clause, the words—"and to be removable on impeachment & conviction of mal-practice or neglect of duty"—which was agreed to.

Mr. Rutlidge & Mr. C. Pinkney moved that the blank for the no. of persons in the Executive be filled with the words "one person." He supposed the reasons to be so obvious & conclusive in favor of one that no member would oppose the motion.

Mr. Randolph opposed it with great earnestness, declaring that he should not do justice to the Country which sent him if he were silently to suffer the establishmt. of a Unity in the Executive department. He felt an opposition to it which he believed he

[1] In printed Journal Geo. ay.—Madison's note.

[2] "Mr. Davey is a Lawyer of some eminence in his State. He is said to have a good classical education, and is a Gentleman of considerable literary talents. He was silent in the Convention, but his opinion was always respected. Mr. Davy is about 30 years of age." —Pierce's Notes, *Id.*, iii., 332.

should continue to feel as long as he lived. He urged 1. that the permanent temper of the people was adverse to the very semblance of Monarchy. 2. that a unity was unnecessary a plurality being equally competent to all the objects of the department. 3. that the necessary confidence would never be reposed in a single Magistrate. 4. that the appointments would generally be in favor of some inhabitant near the center of the Community, and consequently the remote parts would not be on an equal footing. He was in favor of three members of the Executive to be drawn from different portions of the country.

Mr Butler contended strongly for a single magistrate as most likely to answer the purpose of the remote parts. If one man should be appointed he would be responsible to the whole, and would be impartial to its interests. If three or more should be taken from as many districts, there would be a constant struggle for local advantages. In Military matters this would be particularly mischievous. He said his opinion on this point had been formed under the opportunity he had had of seeing the manner in which a plurality of military heads distracted Holland when threatened with invasion by the imperial troops. One man was for directing the force to the defence of this part, another to that part of the Country, just as he happened to be swayed by prejudice or interest.

The motion was then postpd, the Committee rose & the House Adjd

MONDAY JUNE 4. IN COMMITTEE OF THE WHOLE

The Question was resumed on motion of Mr. Pinkney, 2ded by Mr. Wilson, "shall the blank for the number of the Executive be filled with a single person?"

Mr. Wilson was in favor of the motion. It had been opposed by the gentleman from Virga. (Mr. Randolph) but the arguments used had not convinced him. He observed that the objections of Mr. R. were levelled not so much agst the measure itself, as agst its unpopularity. If he could suppose that it would occasion a rejection of the plan of which it should form a part, though the part were an important one, yet he would give it up rather than lose the whole. On examination he could see no evidence of the alledged antipathy of the people. On the contrary he was persuaded that it does not exist. All know that a single magistrate is not a King. One fact has great weight with him. All the 13 States tho agreeing in scarce any other instance, agree in placing a single magistrate at the head of the Govern. The idea of three heads has taken place in none. The degree of power is indeed different; but there are no co-ordinate heads. In addition to his former reasons for preferring a Unity, he would mention another. The *tranquility* not less than the vigor of the Govt. he thought would be favored by it. Among three equal members, he foresaw nothing but uncontrouled, continued, & violent animosities; which would not only interrupt

the public administration; but diffuse their poison thro' the other branches of Gov.t, thro' the States, and at length thro' the people at large. If the members were to be unequal in power the principle of opposition to the Unity was given up. If equal, the making them an odd number would not be a remedy. In Courts of Justice there are two sides only to a question. In the Legislative & Executive departm.ts questions have commonly many sides. Each member therefore might espouse a separate one & no two agree.[1]

Mr. Sherman. This matter is of great importance and ought to be well considered before it is determined. Mr. Wilson he said had observed that in each State a single magistrate was placed at the head of the Gov.t It was so he admitted, and properly so, and he wished the same policy to prevail in the federal Gov.t But then it should be also remarked that in all the States there was a Council of advice, without which the first magistrate could not act. A council he thought necessary to make the establishment acceptable to the people. Even in G. B. the King has a Council; and though he appoints it himself, its advice has its weight with him, and attracts the Confidence of the people.

Mr. Williamson asks Mr. Wilson whether he means to annex a Council.

[1] According to Pierce, King followed Wilson:

"Mr. King was of opinion that the Judicial ought not to join in the negative of a Law, because the Judges will have the expounding of those Laws when they come before them; and they will no doubt stop the operation of such as shall appear repugnant to the Constitution."—Pierce's Notes, *Am. Hist. Rev.*, iii., 322.

Mr. Wilson means to have no Council, which oftener serves to cover, than prevent malpractices.

Mr. Gerry was at a loss to discover the policy of three members for the Executive. It wd. be extremely inconvenient in many instances, particularly in military matters, whether relating to the militia, an army, or a navy. It would be a general with three heads.

On the question for a single Executive it was agreed to Masts. ay. Cont. ay. N. Y. no. Pena. ay. Del. no. Maryd. no. Virga. ay. (Mr. R. & Mr. Blair no—Docr. McCg. Mr. M. & Gen. W. ay. Col. Mason being no, but not in the house, Mr. Wythe ay but gone home). N. C. ay. S. C. ay. Georga. ay.

First Clause of Proposition 8th. relating *to a Council of Revision* taken into consideration.

Mr. Gerry doubts whether the Judiciary ought to form a part of it, as they will have a sufficient check agst. encroachments on their own department by their exposition of the laws, which involved a power of deciding on their Constitutionality. In some States the Judges had actually set aside laws as being agst. the Constitution. This was done too with general approbation. It was quite foreign from the nature of ye. office to make them judges of the policy of public measures. He moves to postpone the clause in order to propose "that the National Executive shall have a right to negative any Legislative act which shall not be afterwards passed by ——— parts of each branch of the national Legislature."

Mr. King seconds the motion, observing that the

Judges ought to be able to expound the law as it should come before them, free from the bias of having participated in its formation.

Mr Wilson thinks neither the original proposition nor the amendment goes far enough. If the Legislative Exetv & Judiciary ought to be distinct & independent, The Executive ought to have an absolute negative. Without such a self-defence the Legislature can at any moment sink it into non-existence. He was for varying the proposition in such a manner as to give the Executive & Judiciary jointly an absolute negative.

On the question to postpone in order to take Mr Gerry's proposition into consideration it was agreed to, Mass.s ay. Con.t no. N. Y. ay. Pa. ay. Del. no. Mary.d no. Virg.a no. N. C ay. S. C. ay. Ga. ay.

Mr. Gerry's proposition being now before Committee, Mr Wilson & Mr Hamilton move that the last part of it (viz. "wch. sl not be afterwds passed "unless by ——— parts of each branch of the National legislature") be struck out, so as to give the Executive an absolute negative on the laws. There was no danger they thought of such a power being too much exercised. It was mentioned by Col: Hamilton that the King of G. B. had not exerted his negative since the Revolution.

Mr Gerry sees no necessity for so great a controul over the legislature as the best men in the Community would be comprised in the two branches of it.

Doc.r Franklin, said he was sorry to differ from his colleague for whom he had a very great respect,

on any occasion, but he could not help it on this. He had had some experience of this check in the Executive on the Legislature, under the proprietary Government of Pen^a^. The negative of the Governor was constantly made use of to extort money. No good law whatever could be passed without a private bargain with him. An increase of his salary, or some donation, was always made a condition; till at last it became the regular practice, to have orders in his favor on the Treasury, presented along with the bills to be signed, so that he might actually receive the former before he should sign the latter. When the Indians were scalping the western people, and notice of it arrived, the concurrence of the Governor in the means of self-defence could not be got, till it was agreed that his Estate should be exempted from taxation: so that the people were to fight for the security of his property, whilst he was to bear no share of the burden. This was a mischevous sort of check. If the Executive was to have a Council, such a power would be less objectionable. It was true, the King of G. B. had not, as was said, exerted his negative since the Revolution; but that matter was easily explained. The bribes and emoluments now given to the members of parliament rendered it unnecessary, every thing being done according to the will of the Ministers. He was afraid, if a negative should be given as proposed, that more power and money would be demanded, till at last eno' would be gotten to influence & bribe the Legislature into a compleat subjection to the will of the Executive.

Mr Sherman was ag^st enabling any one man to stop the will of the whole. No one man could be found so far above all the rest in wisdom. He thought we ought to avail ourselves of his wisdom in revising the laws, but not permit him to overrule the decided and cool opinions of the Legislature.

Mr Madison supposed that if a proper proportion of each branch should be required to overrule the objections of the Executive, it would answer the same purpose as an absolute negative. It would rarely if ever happen that the Executive constituted as ours is proposed to be, would have firmness eno' to resist the legislature, unless backed by a certain part of the body itself. The King of G. B. with all his splendid attributes would not be able to withstand ye unanimous and eager wishes of both houses of Parliament. To give such a prerogative would certainly be obnoxious to the temper of this Country; its present temper at least.

Mr Wilson believed as others did that this power would seldom be used. The Legislature would know that such a power existed, and would refrain from such laws, as it would be sure to defeat. Its silent operation would therefore preserve harmony and prevent mischief. The case of Pen^a formerly was very different from its present case. The Executive was not then as now to be appointed by the people. It will not in this case as in the one cited be supported by the head of a Great Empire, actuated by a different & sometimes opposite interest. The salary too is now proposed to be fixed by the

Constitution, or if Dr F.'s idea should be adopted all salary whatever interdicted. The requiring a large proportion of each House to overrule the Executive check might do in peaceable times; but there might be tempestuous moments in which animosities may run high between the Executive and Legislative branches, and in which the former ought to be able to defend itself.

Mr Butler had been in favor of a single Executive Magistrate; but could he have entertained an idea that a compleat negative on the laws was to be given him he certainly should have acted very differently. It had been observed that in all countries the Executive power is in a constant course of increase. This was certainly the case in G. B. Gentlemen seemed to think that we had nothing to apprehend from an abuse of the Executive power. But why might not a Cataline or a Cromwell arise in this Country as well as in others.

Mr Bedford was opposed to every check on the Legislature, even the Council of Revision first proposed. He thought it would be sufficient to mark out in the Constitution the boundaries to the Legislative Authority, which would give all the requisite security to the rights of the other departments. The Representatives of the people were the best Judges of what was for their interest, and ought to be under no external controul whatever. The two branches would produce a sufficient controul within the Legislature itself.

Col. Mason observed that a vote had already passed he found [he was out at the time] for vesting

the executive powers in a single person. Among these powers was that of appointing to offices in certain cases. The probable abuses of a negative had been well explained by Dr F. as proved by experience, the best of all tests. Will not the same door be opened here. The Executive may refuse its assent to necessary measures till new appointments shall be referred to him; and having by degrees engrossed these into all his own hands, the American Executive, like the British, will by bribery & influence, save himself the trouble & odium of exerting his negative afterwards. We are Mr Chairman going very far in this business. We are not indeed constituting a British Government, but a more dangerous monarchy, an elective one. We are introducing a new principle into our system, and not necessary as in the British Govt where the Executive has greater rights to defend. Do gentlemen mean to pave the way to hereditary Monarchy? Do they flatter themselves that the people will ever consent to such an innovation? If they do I venture to tell them, they are mistaken. The people never will consent. And do gentlemen consider the danger of delay, and the still greater danger of a rejection, not for a moment but forever, of the plan which shall be proposed to them. Notwithstanding the oppression & injustice experienced among us from democracy; the genius of the people is in favor of it, and the genius of the people must be consulted. He could not but consider the federal system as in effect dissolved by the appointment of this Convention to

devise a better one. And do gentlemen look forward to the dangerous interval between extinction of an old, and the establishment of a new Governm^t and to the scenes of confusion which may ensue. He hoped that nothing like a Monarchy would ever be attempted in this Country. A hatred to its oppressions had carried the people through the late Revolution. Will it not be eno' to enable the Executive to suspend offensive laws, till they shall be coolly revised, and the objections to them overruled by a greater majority than was required in the first instance. He never could agree to give up all the rights of the people to a single magistrate: If more than one had been fixed on, greater powers might have been entrusted to the Executive. He hoped this attempt to give such powers would have its weight hereafter as an argument for increasing the number of the Executive.

Doc^r Franklin. A Gentleman from S. C., (Mr Butler) a day or two ago called our attention to the case of the U. Netherlands. He wished the gentleman had been a little fuller, and had gone back to the original of that Gov^t The people being under great obligations to the Prince of Orange whose wisdom and bravery had saved them, chose him for the Stadtholder. He did very well. Inconveniences however were felt from his powers; which growing more & more oppressive, they were at length set aside. Still however there was a party for the P. of Orange, which descended to his son who excited insurrections, spilt a great deal of blood, murdered the

de Witts, and got the powers revested in the Stadtholder. Afterwards another Prince had power to excite insurrections & make the Stadtholdership hereditary. And the present Stadth^{der} is ready to wade thro' a bloody civil war to the establishment of a monarchy. Col. Mason had mentioned the circumstance of appointing officers. He knew how that point would be managed. No new appointment would be suffered as heretofore in Pens^{a} unless it be referred to the Executive; so that all profitable offices will be at his disposal. The first man put at the helm will be a good one. No body knows what sort may come afterwards. The Executive will be always increasing here, as elsewhere, till it ends in a Monarchy.

On the question for striking out so as to give Executive an absolute negative,—Mass^{ts} no. Con^{t} no. N. Y. no. P^{a} no. Del. no. M^{d} no. V^{a} no. N. C. no. S. C. no. Georg^{a} no.

Mr Butler moved that the Resol^{n} be altered so as to read—"Resolved that the National Executive have a power to suspend any Legislative act for the term of ———."

Doct^{r} Franklin seconds the motion.

Mr Gerry observed that a power of suspending might do all the mischief dreaded from the negative of useful laws; without answering the salutary purpose of checking unjust or unwise ones.

On question "for giving this suspending power" all the States, to wit Mass^{ts} Con^{t} N. Y. P^{a} Del. Mary^{d} Virg^{a} N. C. S. C. Georgia, were *No.*

On a question for enabling *two thirds* of each

branch of the Legislature to overrule the revisionary check, it passed in the affirmative sub silentio; and was inserted in the blank of Mr. Gerry's motion.

On the question on Mr. Gerry's motion which gave the Executive alone without the Judiciary the revisionary controul on the laws unless overruled by ⅔ of each branch; Masts. ay. Cont. no. N. Y. ay. Pa. ay. Del. ay. Maryd. no. Va. ay. N. C. ay. S. C. ay. Geo. ay.

It was moved by Mr. Wilson 2ded. by Mr. Madison—that the following amendment be made to the last resolution—after the words "National Ex." to add "& a convenient number of the National Judiciary."[1]

[1] Before the motion, according to King's notes:

"*Madison*—The judiciary ought to be introduced in the business of Legislation—they will protect their department, and united with the Executive make its negatives more strong. There is weight in the objections to this measure—but a check on the Legislature is necessary, Experience proves it to be so, and teaches us that what has been thought a calumny on a republican Govt. is nevertheless true—In all Countries are diversity of Interests, the Rich & the Poor, the Dr. & Cr., the followers of different Demagogues, the Diversity of religious Sects—the Effects of these Divisions in Ancient Govts. are well known, and the like causes will now produce like effects. We must therefore introduce in our system Provisions against the measures of an interested majority—a check is not only necessary to protect the Executive power, but the minority in the Legislature. The independence of the Executive, having the Eyes of all upon him will make him an impartial judge—add the Judiciary, and you greatly increase his respectability."

After the motion: "Dickinson opposed — You shd. separate the Departments—you have given the Executive a share in Legislation; and it is asked why not give a share to the judicial power. Because the Judges are to interpret the Laws, and therefore shd. have no share in making them—not so with the Executive whose causing the Laws to be Executed is a ministerial office only. Besides we have experienced in the Br. Constitution which confers the Power of a negative on the Executive."—King's *Life and Correspondence of Rufus King*, ., 592.

An Objection of order being taken by Mr Hamilton to the introduction of the last amendment at this time, notice was given by Mr W. & Mr M., that the same wd be moved to-morrow,—whereupon Wednesday (the day after) was assigned to reconsider the amendment of Mr Gerry.

It was then moved & 2ded to proceed to the consideration of the 9th resolution submitted by Mr Randolph—when on motion to agree to the first clause namely "Resolved, that a National Judiciary be established," It passed in the affirmative nem. con.

It was then moved & 2ded to add these words to the first clause of the ninth resolution namely—"to consist of one supreme tribunal, and of one or more inferior tribunals," which passed in the affirmative.

The Commee then rose and the House

Adjourned.

TUESDAY JUNE 5. IN COMMITTEE OF THE WHOLE

Governor Livingston from New Jersey, took his seat.

The words, "one or more" were struck out before "inferior tribunals" as an amendment to the last clause of Resoln 9th. The Clause—"that the National Judiciary be chosen by the National Legislature," being under consideration.

Mr Wilson opposed the appointmt of Judges by the National Legisl: Experience shewed the im-

propriety of such appointm^ts^ by numerous bodies. Intrigue, partiality, and concealment were the necessary consequences. A principal reason for unity in the Executive was that officers might be appointed by a single, responsible person.

Mr Rutlidge was by no means disposed to grant so great a power to any single person. The people will think we are leaning too much towards Monarchy. He was against establishing any national tribunal except a single supreme one. The State tribunals are most proper to decide in all cases in the first instance.

Doc^r^ Franklin observed that two modes of chusing the Judges had been mentioned, to wit, by the Legislature and by the Executive. He wished such other modes to be suggested as might occur to other gentlemen; it being a point of great moment. He would mention one which he had understood was practised in Scotland. He then in a brief and entertaining manner related a Scotch mode, in which the nomination proceeded from the Lawyers, who always selected the ablest of the profession in order to get rid of him, and share his practice among themselves. It was here he said the interest of the electors to make the best choice, which should always be made the case if possible.

Mr. Madison disliked the election of the Judges by the Legislature or any numerous body. Besides the danger of intrigue and partiality, many of the members were not judges of the requisite qualifications. The Legislative talents which were very different

from those of a Judge, commonly recommended men to the favor of Legislative Assemblies. It was known too that the accidental circumstances of presence and absence, of being a member or not a member, had a very undue influence on the appointment. On the other hand He was not satisfied with referring the appointment to the Executive. He rather inclined to give it to the Senatorial branch, as numerous eno' to be confided in—as not so numerous as to be governed by the motives of the other branch; and as being sufficiently stable and independent to follow their deliberate judgments. He hinted this only and moved that the *appointment by the Legislature* might be struck out, & a blank left to be hereafter filled on maturer reflection. Mr Wilson second it. On the question for striking out, Massts ay. Contt no. N. Y. ay. N. J. ay. Penna ay. Del. ay. Md ay. Va ay. N. C. ay. S. C. no. Geo. ay.

Mr. Wilson gave notice that he should at a future day move for a reconsideration of that clause which respects "inferior tribunals."

Mr Pinkney gave notice that when the clause respecting the appointment of the Judiciary should again come before the Committee he should move to restore the "appointment by the national Legislature."

The following clauses of Resol: 9. were agreed to viz "to hold their offices during good behaviour, and to receive punctually at stated times, a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons

actually in office at the time of such increase or diminution."

The remaining clause of Resolution 9. was posponed.

Resolution 10 was agreed to,—viz—that provision ought to be made for the admission of States lawfully arising within the limits of the U. States, whether from a voluntary junction of Government & territory, or otherwise with the consent of a number of voices in the National Legislature less than the whole.

The 11. Propos: "*for guaranteeing to States Republican Gov*^{t} *& territory*" &c. being read Mr Patterson[1] wished the point of representation could be decided before this clause should be considered, and moved to postpone it, which was not opposed, and agreed to,—Connecticut & S. Carolina only voting agst it.

Propos. 12 "*for continuing Cong*^{s} *till a given day and for fulfilling their engagements*," produced no debate.

On the question, Mass. ay. Con^{t} no. N. Y. ay. N. J.[2] ay. Pa. ay. Del. no. M^{d} ay. V^{a} ay. N. C. ay. S. C. ay. G. ay.

[1] "Mr Patterson is one of those kind of Men whose powers break in upon you, and create wonder and astonishment. He is a Man of great modesty, with looks that bespeak talents of no great extent,—but he is a Classic, a Lawyer, and an Orator;—and of a disposition so favorable to his advancement that every one seemed ready to exalt him with their praises. He is very happy in the choice of time and manner of engaging in a debate, and never speaks but when he understands his subject well. This Gentleman is about 34 y. of age, of a very low stature."—Pierce's Notes, *Amer. Hist. Rev.*, iii., 328.

[2] Note in Madison's writing: New Jersey omitted in printed Journal.

Propos: 13. "that *provision ought to be made for hereafter amending the system now to be established, without requiring the assent of the Nat.l Legislature*", being taken up,

Mr. Pinkney doubted the propriety or necessity of it.

Mr. Gerry favored it. The novelty & difficulty of the experiment requires periodical revision. The prospect of such a revision would also give intermediate stability to the Gov.t Nothing had yet happened in the States where this provision existed to prove its impropriety.—The proposition was postponed for further consideration: the votes being, Mas: Con. N. Y. Pa. Del. Ma. N. C. ay Virga. S. C. Geo. no.

Propos. 14. "*requiring oath from the State officers to support National Gov.t*" was postponed after a short uninteresting conversation: the votes. Con. N. Jersey Md. Virg. S. C. Geo. ay N. Y. Pa. Del. N. C. no Massachusetts divided.

Propos. 15. for "*recommending Conventions under appointment of the people to ratify the new Constitution*" &c. being taken up,

Mr. Sherman thought such a popular ratification unnecessary: the articles of Confederation providing for changes and alterations with the assent of Congs. and ratification of State Legislatures.

Mr. Madison thought this provision essential. The articles of Confedn. themselves were defective in this respect, resting in many of the States on the Legislative sanction only. Hence in conflicts between acts

of the States, and of Cong^{s} especially where the former are of posterior date, and the decision is to to be made by State tribunals, an uncertainty must necessarily prevail, or rather perhaps a certain decision in favor of the State authority. He suggested also that as far as the articles of Union were to be considered as a Treaty only of a particular sort, among the Governments of Independent States, the doctrine might be set up that a breach of any one article, by any of the parties, absolved the other parties from the whole obligation. For these reasons as well as others he thought it indispensable that the new Constitution should be ratified in the most unexceptionable form, and by the supreme authority of the people themselves.

Mr Gerry observed that in the Eastern States the Confed^{n} had been sanctioned by the people themselves. He seemed afraid of referring the new system to them. The people in that quarter have at this time the wildest ideas of Government in the world. They were for abolishing the Senate in Mass^{ts} and giving all the other powers of Gov^{t} to the other branch of the Legislature.

Mr King supposed that the last article of ye Confed^{n} Rendered the legislature competent to the ratification. The people of the Southern States where the federal articles had been ratified by the Legislatures only, had since *impliedly* given their sanction to it. He thought notwithstanding that there might be policy in varying the mode. A Convention being a single house, the adoption may more easily be

carried thro' it, than thro' the Legislatures where there are several branches. The Legislatures also being to lose power, will be most likely to raise objections. The people having already parted with the necessary powers it is immaterial to them, by which Government they are possessed, provided they be well employed.

Mr. Wilson took this occasion to lead the Committee by a train of observations to the idea of not suffering a disposition in the plurality of States to confederate anew on better principles, to be defeated by the inconsiderate or selfish opposition of a few States. He hoped the provision for ratifying would be put on such a footing as to admit of such a partial union, with a door open for the accession of the rest.[1]

Mr. Pinkney hoped that in case the experiment should not unanimously take place, nine States might be authorized to unite under the same Governmt.

The propos. 15. was postponed nem. contt.

Mr. Pinkney & Mr. Rutlidge moved that to-morrow be assigned to reconsider that clause of Propos: 4: which respects the election of the first branch of the National Legislature—which passed in affirmative,—Con.: N. Y., Pa. Del. Md., Va., ay—6 Mas.: N. J.: N. C.: S. C.: Geo.: no. 5.

Mr. Rutlidge havg obtained a rule for reconsideration of the clause for establishing *inferior* tribunals

[1] (This hint was probably meant in terrorem to the smaller States of N. Jersey & Delaware. Nothing was said in reply to it.)—Madison's Note.

under the national authority, now moved that that part of the clause in the propos. 9. should be expunged: arguing that the State tribunals might and ought to be left in all cases to decide in the first instance the right of appeal to the supreme national tribunal being sufficient to secure the national rights & uniformity of Judgm^{ts}: that it was making an unnecessary encroachment on the jurisdiction of the States and creating unnecessary obstacles to their adoption of the new system. Mr. Sherman 2^{ded} the motion.

Mr Madison observed that unless inferior tribunals were dispersed throughout the Republic with *final* jurisdiction in *many* cases, appeals would be multiplied to a most oppressive degree; that besides, an appeal would not in many cases be a remedy. What was to be done after improper Verdicts in State tribunals obtained under the biassed directions of a dependent Judge, or the local prejudices of an undirected jury? To remand the cause for a new trial would answer no purpose. To order a new trial at the Supreme bar would oblige the parties to bring up their witnesses, tho' ever so distant from the seat of the Court. An effective Judiciary establishment commensurate to the legislative authority, was essential. A Government without a proper Executive & Judiciary would be the mere trunk of a body, without arms or legs to act or move.

Mr Wilson opposed the motion on like grounds. He said the admiralty jurisdiction ought to be given wholly to the national Government, as it related to

cases not within the jurisdiction of particular states, & to a scene in which controversies with foreigners would be most likely to happen.

Mr Sherman was in favor of the motion. He dwelt chiefly on the supposed expensiveness of having a new set of Courts, when the existing State Courts would answer the same purpose.

Mr Dickinson contended strongly that if there was to be a National Legislature, there ought to be a national Judiciary, and that the former ought to have authority to institute the latter.

On the question for Mr Rutlidge's motion to strike out "inferior tribunals"

Mass.ts divided. Con.t ay. N. Y. div.d N. J. ay. P.a no. Del. no. M.d no. V.a no. N. C. ay. S. C. ay. Geo. ay.

Mr Wilson & Mr Madison then moved, in pursuance of the idea expressed above by Mr. Dickinson, to add to the Resol: 9. the words following "that the National Legislature be empowered to institute inferior tribunals." They observed that there was a distinction between establishing such tribunals absolutely, and giving a discretion to the Legislature to establish or not establish them. They repeated the necessity of some such provision.

Mr Butler. The people will not bear such innovations. The States will revolt at such encroachments. Supposing such an establishment to be useful, we must not venture on it. We must follow the example of Solon who gave the Athenians not the best Gov.t he could devise, but the best they w.d receive.

Mr King remarked as to the comparative expence, that the establishment of inferior tribunals wd cost infinitely less than the appeals that would be prevented by them.

On this question as moved by Mr W. & Mr M. Mass. ay. Ct no. N. Y. divd N. J.[1] ay. Pa ay. Del. ay. Md ay. Va ay. N. C. ay. S. C. no. Geo. ay.

The Committee then rose & the House adjourned to 11 OC tomw

WEDNESDAY JUNE 6TH IN COMMITTEE OF THE WHOLE.

Mr Pinkney according to previous notice & rule obtained, moved "that the first branch of the national Legislature be elected by the State Legislatures, and not by the people;" contending that the people were less fit Judges in such a case, and that the Legislatures would be less likely to promote the adoption of the new Government, if they were to be excluded from all share in it.

Mr Rutlidge 2ded the motion.

Mr Gerry.[2] Much depends on the mode of election. In England the people will probably lose their liberty from the smallness of the proportion having a right of suffrage. Our danger arises from

[1] In printed Journals N. Jersey, no.—Madison's Note.

[2] "Mr. Gerry.—If the national legislature are appointed by the state legislatures, demagogues and corrupt members will creep in."—Yates's *Secret Debates in Forming the Constitution*, 105.

the opposite extreme: hence in Mass^{ts} the worst men get into the Legislature. Several members of that Body had lately been convicted of infamous crimes. Men of indigence, ignorance & baseness, spare no pains, however dirty to carry their point agst men who are superior to the artifices practised. He was not disposed to run into extremes. He was as much principled as ever agst aristocracy and monarchy. It was necessary on the one hand that the people should appoint one branch of the Gov^{t} in order to inspire them with the necessary confidence. But he wished the election on the other to be so modified as to secure more effectually a just preference of merit. His idea was that the people should nominate certain persons in certain districts, out of whom the State Legislatures sh^{d} make the appointment.

Mr Wilson. He wished for vigor in the Gov^{t}, but he wished that vigorous authority to flow immediately from the legitimate source of all authority. The Gov^{t} ought to possess not only 1st the *force*, but 2dly the *mind or sense* of the people at large. The Legislature ought to be the most exact transcript of the whole Society. Representation is made necessary only because it is impossible for the people to act collectively. The opposition was to be expected he said from the *Governments*, not from the Citizens of the States. The latter had parted as was observed (by Mr King) with all the necessary powers; and it was immaterial to them, by whom they were exercised, if well exercised. The State officers were to be the losers of power. The people he supposed

would be rather more attached to the national Gov^{t} than to the State Gov^{ts} as being more important in itself, and more flattering to their pride. There is no danger of improper elections if made by *large* districts. Bad elections proceed from the smallness of the districts which give an opportunity to bad men to intrigue themselves into office.

Mr Sherman. If it were in view to abolish the State Gov^{ts} the elections ought to be by the people. If the State Gov^{ts} are to be continued, it is necessary in order to preserve harmony between the National & State Gov^{ts} that the elections to the former sh^{d} be made by the latter. The right of participating in the National Gov^{t} would be sufficiently secured to the people by their election of the State Legislatures. The objects of the Union, he thought were few, 1. defence agst foreign danger, 2 agst internal disputes & a resort to force, 3. Treaties with foreign nations 4 regulating foreign commerce, & drawing revenue from it. These & perhaps a few lesser objects alone rendered a Confederation of the States necessary. All other matters civil & criminal would be much better in the hands of the States. The people are more happy in small than in large States. States may indeed be too small as Rhode Island, & thereby be too subject to faction. Some others were perhaps too large, the powers of Gov^{t} not being able to pervade them. He was for giving the General Gov^{t} power to legislate and execute within a defined province.

Col. Mason. Under the existing Confederacy,

Cong.s represent the *States* and not the *people* of the States: their acts operate on the *States*, not on the individuals. The case will be changed in the new plan of Gov.t The people will be represented; they ought therefore to choose the Representatives. The requisites in actual representation are that the Rep.s should sympathize with their constituents; sh.d think as they think, & feel as they feel; and that for these purposes sh.d even be residents among them. Much he s.d had been alledged ag.st democratic elections. He admitted that much might be said; but it was to be considered that no Gov.t was free from imperfections & evils; and that improper elections in many instances were inseparable from Republican Gov.ts. But compare these with the advantage of this Form in favor of the rights of the people, in favor of human nature. He was persuaded there was a better chance for proper elections by the people, if divided into large districts, than by the State Legislatures. Paper money had been issued by the latter when the former were against it. Was it to be supposed that the State Legislatures then w.d not send to the Nat.l legislature patrons of such projects, if the choice depended on them.

M.r Madison considered an election of one branch at least of the Legislature by the people immediately, as a clear principle of free Gov.t and that this mode under proper regulations had the additional advantage of securing better representatives, as well as of avoiding too great an agency of the State Governments in the General one. He differed from the

member from Connecticut (Mr. Sherman) in thinking the objects mentioned to be all the principal ones that required a National Gov^{t} Those were certainly important and necessary objects; but he combined with them the necessity of providing more effectually for the security of private rights, and the steady dispensation of Justice. Interferences with these were evils which had more perhaps than anything else, produced this convention. Was it to be supposed that republican liberty could long exist under the abuses of it practised in some of the States. The gentleman (Mr Sherman) had admitted that in a very small State, faction & oppression w^{d} prevail. It was to be inferred then that wherever these prevailed the State was too small. Had they not prevailed in the largest as well as the smallest tho' less than in the smallest; and were we not thence admonished to enlarge the sphere as far as the nature of the Gov^{t} would Admit. This was the only defence agst the inconveniences of democracy consistent with the democratic form of Gov^{t}. All civilized Societies would be divided into different Sects, Factions, & interests, as they happened to consist of rich & poor, debtors & creditors, the landed the manufacturing, the commercial interests, the inhabitants of this district or that district, the followers of this political leader or that political leader—the disciples of this religious Sect or that religious Sect. In all cases where a majority are united by a common interest or passion, the rights of the minority are in danger. What motives are to restrain

them? A prudent regard to the maxim that honesty is the best policy is found by experience to be as little regarded by bodies of men as by individuals. Respect for character is always diminished in proportion to the number among whom the blame or praise is to be divided. Conscience, the only remaining tie is known to be inadequate in individuals: In large numbers, little is to be expected from it. Besides, Religion itself may become a motive to persecution & oppression. These observations are verified by the Histories of every country antient & modern. In Greece & Rome the rich & poor, the Creditors & debtors, as well as the patricians & plebeians alternately oppressed each other with equal unmercifulness. What a source of oppression was the relation between the parent cities of Rome, Athens & Carthage, & their respective provinces; the former possessing the power, & the latter being sufficiently distinguished to be separate objects of it? Why was America so justly apprehensive of Parliamentary injustice? Because G. Britain had a separate interest real or supposed, & if her authority had been admitted, could have pursued that interest at our expence. We have seen the mere distinction of colour made in the most enlightened period of time, a ground of the most oppressive dominion ever exercised by man over man. What has been the source of those unjust laws complained of among ourselves? Has it not been the real or supposed interest of the major number? Debtors have defrauded their creditors. The landed interest has borne hard on the

mercantile interest. The Holders of one species of property have thrown a disproportion of taxes on the holders of another species. The lesson we are to draw from the whole is that where a majority are united by a common sentiment, and have an opportunity, the rights of the minor party become insecure. In a Republican Gov.t the majority if united have always an opportunity. The only remedy is to enlarge the sphere, & thereby divide the community into so great a number of interests & parties, that in the 1.st place a majority will not be likely at the same moment to have a common interest separate from that of the whole or of the minority; and in the 2.d place that in case they sh.d have such an interest, they may not be apt to unite in the pursuit of it. It was incumbent on us then to try this remedy, and with that view to frame a republican system on such a scale & in such a form as will controul all the evils w.ch have been experienced.

M.r Dickinson considered it essential that one branch of the Legislature sh.d be drawn immediately from the people; and as expedient that the other sh.d be chosen by the Legislatures of the States. This combination of the State Gov.ts with the national Gov.t was as politic as it was unavoidable. In the formation of the Senate we ought to carry it through such a refining process as will assimilate it as nearly as may be to the House of Lords in England. He repeated his warm eulogiums on the British Constitution. He was for a strong National Gov.t but for leaving the States a considerable agency in the

System. The objection ag^st^ making the former dependent on the latter might be obviated by giving to the Senate an authority permanent & irrevocable for three, five or seven years. Being thus independent they will check & decide with becoming freedom.

Mr Read. Too much attachment is betrayed to the State Govern^ts^ We must look beyond their continuance. A national Gov^t^ must soon of necessity swallow all of them up. They will soon be reduced to the mere office of electing the National Senate. He was ag^st^ patching up the old federal System: he hoped the idea w^d^ be dismissed. It would be like putting new cloth on an old garment. The confederation was founded on temporary principles. It cannot last: it can not be amended. If we do not establish a good Gov^t^ on new principles, we must either go to ruin, or have the work to do over again. The people at large are wrongly suspected of being averse to a Genl Gov^t^. The aversion lies among interested men who possess their confidence.

Mr Pierce [1] was for an election by the people as to the 1st branch & by the States as to the 2^d^ branch;

[1] "My own character I shall not attempt to draw, but leave those who may choose to speculate on it, to consider it in any light that their fancy or imagination may depict. I am conscious of having discharged my duty as a Soldier through the course of the late revolution with honor and propriety; and my services in Congress and the Convention were bestowed with the best intention towards the interest of Georgia, and towards the general welfare of the Confederacy. I possess ambition, and it was that, and the flattering opinion which some of my Friends had of me, that gave me a seat in the wisest Council in the World, and furnished me with an opportunity of giving these short Sketches of the Characters who composed it."—Pierce's Notes, *Amer. Hist. Rev.*, iii., 334.

by which means the Citizens of the States w^d^ be represented both *individually* & *collectively*.

General Pinkney wished to have a good National Gov^t^ & at the same time to leave a considerable share of power in the States. An election of either branch by the people scattered as they are in many States, particularly in S. Carolina was totally impracticable. He differed from gentlemen who thought that a choice by the people w^d^ be a better guard ag^st^ bad measures, than by the Legislatures. A majority of the people in S. Carolina were notoriously for paper-money as a legal tender; the Legislature had refused to make it a legal tender. The reason was that the latter had some sense of character and were restrained by that consideration. The State Legislatures also he said would be more jealous, & more ready to thwart the National Gov^t^, if excluded from a participation in it. The Idea of abolishing these Legislatures w^d^ never go down.

Mr Wilson would not have spoken again, but for what had fallen from Mr. Read; namely, that the idea of preserving the State Gov^ts^ ought to be abandoned. He saw no incompatibility between the national & State Gov^ts^ provided the latter were restrained to certain local purposes; nor any probability of their being devoured by the former. In all confederated Systems antient & modern the reverse had happened; the Generality being destroyed gradually by the usurpations of the parts composing it.

On the question for electing the 1st branch by the

State Legislatures as moved by Mr. Pinkney: it was negatived:

Mass. no. Ct. ay. N. Y. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. ay. Geo. no.

Mr. Wilson moved to reconsider the vote excluding the Judiciary from a share in the revision of the laws, and to add after "National Executive" the words "with a convenient number of the national Judiciary;" remarking the expediency of reinforcing the Executive with the influence of that Department.

Mr. Madison 2ded. the motion. He observed that the great difficulty in rendering the Executive competent to its own defence arose from the nature of Republican Govt. which could not give to an individual citizen that settled pre-eminence in the eyes of the rest, that weight of property, that personal interest agst. betraying the national interest, which appertain to an hereditary magistrate. In a Republic personal merit alone could be the ground of political exaltation, but it would rarely happen that this merit would be so pre-eminent as to produce universal acquiescence. The Executive Magistrate would be envied & assailed by disappointed competitors: His firmness therefore wd. need support. He would not possess those great emoluments from his station, nor that permanent stake in the public interest which wd. place him out of the reach of foreign corruption. He would stand in need therefore of being controuled as well as supported. An

association of the Judges in his revisionary function w^d^ both double the advantage and diminish the danger. It w^d^ also enable the Judiciary Department the better to defend itself ag^st^ Legislative encroachments. Two objections had been made 1st that the Judges ought not to be subject to the bias which a participation in the making of laws might give in the exposition of them. 2dly that the Judiciary Departm^t^ ought to be separate & distinct from the other great Departments. The 1st objection had some weight; but it was much diminished by reflecting that a small proportion of the laws coming in question before a Judge w^d^ be such wherein he had been consulted; that a small part of this proportion w^d^ be so ambiguous as to leave room for his prepossessions; and that but a few cases w^d^ probably arise in the life of a Judge under such ambiguous passages. How much good on the other hand w^d^ proceed from the perspicuity, the conciseness, and the systematic character wch the Code of laws w^d^ receive from the Judiciary talents. As to the 2^d^ objection, it either had no weight, or it applied with equal weight to the Executive & to the Judiciary revision of the laws. The maxim on which the objection was founded required a separation of the Executive as well as the Judiciary from the Legislature & from each other. There w^d^ in truth however be no improper mixture of these distinct powers in the present case. In England, whence the maxim itself had been drawn, the Executive had an absolute negative on the laws; and the Supreme tribunal of

Justice (the House of Lords) formed one of the other branches of the Legislature. In short whether the object of the revisionary power was to restrain the Legislature from encroaching on the other co-ordinate Departments, or on the rights of the people at large; or from passing laws unwise in their principle, or incorrect in their form, the utility of annexing the wisdom and weight of the Judiciary to the Executive seemed incontestable.

Mr Gerry thought the Executive, whilst standing alone wd be more impartial than when he cd be covered by the sanction & seduced by the sophistry of the Judges.

Mr King. If the Unity of the Executive was preferred for the sake of responsibility, the policy of it is as applicable to the revisionary as to the executive power.

Mr Pinkney had been at first in favor of joining the heads of the principal departmts the Secretary at War, of foreign affairs &c—in the council of revision. He had however relinquished the idea from a consideration that these could be called on by the Executive Magistrate whenever he pleased to consult them. He was opposed to the introduction of the Judges into the business.

Col. Mason was for giving all possible weight to the revisionary institution. The Executive power ought to be well secured agst Legislative usurpations on it. The purse & the sword ought never to get into the same hands whether Legislative or Executive.

Mr Dickinson. Secrecy, vigor & despatch are not the principal properties req^d in the Executive. Important as these are, that of responsibility is more so, which can only be preserved; by leaving it singly to discharge its functions. He thought too a junction of the Judiciary to it, involved an improper mixture of powers.

Mr Wilson remarked, that the responsibility required belonged to his Executive duties. The revisionary duty was an extraneous one, calculated for collateral purposes.

Mr Williamson, was for substituting a clause requiring $\frac{2}{3}$ for every effective act of the Legislature, in place of the revisionary provision.

On the question for joining the Judges to the Executive in the revisionary business,

Mass. no. Con^t ay. N. Y. ay. N. J. no. P^a no. Del. no. M^d no. V^a ay. N. C. no. S. C. no. Geo. no.

Mr Pinkney gave notice that tomorrow he should move for the reconsideration of that clause in the sixth Resolution adopted by the Comm^e which vests a negative in the National Legislature on the laws of the several States.

The Com^e rose & the House adj^d to 11 OC.

THURSDAY JUNE 7TH 1787—IN COMMITTEE OF THE WHOLE

Mr Pinkney according to notice moved to reconsider the clause respecting the negative on State

laws, which was agreed to, and tomorrow for fixed the purpose.

The Clause providing for ye appointment of the 2^d branch of the national Legislature, having lain blank since the last vote on the mode of electing it, to wit, by the 1st branch, Mr Dickinson now moved "that the members of the 2^d branch ought to be chosen by the individual Legislatures."

Mr Sherman seconded the motion; observing that the particular States would thus become interested in supporting the National Govenm^t and that a due harmony between the two Governments would be maintained. He admitted that the two ought to have separate and distinct jurisdictions, but that they ought to have a mutual interest in supporting each other.

Mr Pinkney. If the small States should be allowed one Senator only, the number will be too great, there will be 80 at least.

Mr Dickinson had two reasons for his motion. 1, because the sense of the States would be better collected through their Governments; than immediately from the people at large; 2. because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the State Legislatures, than in any other mode. The greatness of the number was no objection with him. He hoped there would

be 80 and twice 80. of them. If their number should be small, the popular branch could not be balanced by them. The legislature of a numerous people ought to be a numerous body.

Mr Williamson, preferred a small number of Senators, but wished that each State should have at least one. He suggested 25 as a convenient number. The different modes of representation in the different branches, will serve as a mutual check.

Mr Butler was anxious to know the ratio of representation before he gave any opinion.

Mr Wilson. If we are to establish a national Government, that Government ought to flow from the people at large. If one branch of it should be chosen by the Legislatures, and the other by the people, the two branches will rest on different foundations, and dissensions will naturally arise between them. He wished the Senate to be elected by the people as well as the other branch, the people might be divided into proper districts for the purpose & moved to postpone the motion of Mr Dickinson, in order to take up one of that import.

Mr Morris 2ded him.

Mr Read proposed "that the Senate should be appointed by the Executive Magistrate out of a proper number of persons to be nominated by the individual legislatures." He said he thought it his duty, to speak his mind frankly. Gentlemen he hoped would not be alarmed at the idea. Nothing short of this approach towards a proper model of Government would answer the purpose, and he

thought it best to come directly to the point at once. —His proposition was not seconded nor supported.

Mr Madison, if the motion (of Mr. Dickinson) should be agreed to, we must either depart from the doctrine of proportional representation; or admit into the Senate a very large number of members. The first is inadmissible, being evidently unjust. The second is inexpedient. The use of the Senate is to consist in its proceeding with more coolness, with more system, & with more wisdom, than the popular branch. Enlarge their number and you communicate to them the vices which they are meant to correct. He differed from Mr D. who thought that the additional number would give additional weight to the body. On the contrary it appeared to him that their weight would be in an inverse ratio to their number. The example of the Roman Tribunes was applicable. They lost their influence and power, in proportion as their number was augmented. The reason seemed to be obvious: They were appointed to take care of the popular interests & pretensions at Rome, because the people by reason of their numbers could not act in concert; were liable to fall into factions among themselves, and to become a prey to their aristocratic adversaries. The more the representatives of the people therefore were multiplied, the more they partook of the infirmities of their constituents, the more liable they became to be divided among themselves either from their own indiscretions or the artifices of the opposite faction, and of course the less

capable of fulfilling their trust. When the weight of a set of men depends merely on their personal characters; the greater the number the greater the weight. When it depends on the degree of political authority lodged in them the smaller the number the greater the weight. These considerations might perhaps be combined in the intended Senate; but the latter was the material one.

Mr Gerry. 4 modes of appointing the Senate have been mentioned. 1. by the 1st branch of the National Legislature. This would create a dependance contrary to the end proposed. 2. by the National Executive. This is a stride towards monarchy that few will think of. 3. by the people. The people have two great interests, the landed interest, and the commercial including the stockholders. To draw both branches from the people will leave no security to the latter interest; the people being Chiefly composed of the landed interest, and erroneously supposing, that the other interests are adverse to it. 4 by the Individual Legislatures. The elections being carried thro' this refinement, will be most likely to provide some check in favor of the Commercial interest ag^st the landed; without which oppression will take place, and no free Gov^t can last long where that is the case. He was therefore in favor of this last.

Mr Dickenson.[1] The preservation of the States

[1] It will throw light on this discussion to remark that an election by the State Legislatures involved a surrender of the principle insisted on by the large States & dreaded by the small ones, namely that of a proportional representation in the Senate. Such a rule w^d make the

in a certain degree of agency is indispensable. It will produce that collision between the different authorities which should be wished for in order to check each other. To attempt to abolish the States altogether, would degrade the Councils of our Country, would be impracticable, would be ruinous. He compared the proposed National System to the Solar System, in which the States were the planets, and ought to be left to move freely in their proper orbits. The Gentleman from Pa (Mr Wilson) wished he said to extinguish these planets. If the State Governments were excluded from all agency in the national one, and all power drawn from the people at large, the consequence would be that the national Govt would move in the same direction as the State Govts now do, and would run into all the same mischiefs. The reform would only unite the 13 small streams into one great current pursuing the same course without any opposition whatever. He adhered to the opinion that the Senate ought to be composed of a large number, and that their influence from family weight & other causes would be increased thereby. He did not admit that the Tribunes lost their weight in proportion as their no was augmented and gave a historical sketch of this institution. If the reasoning of (Mr Madison) was good it would prove that the number of the Senate ought to be reduced below ten, the highest no of the Tribunitial corps.

body too numerous, as the smallest State must elect one member at least.—Madison's Note.

Mr Wilson. The subject it must be owned is surrounded with doubts and difficulties. But we must surmount them. The British Governmt cannot be our model. We have no materials for a similar one. Our manners, our laws, the abolition of entails and of primogeniture, the whole genius of the people, are opposed to it. He did not see the danger of the States being devoured by the Nationl Govt On the contrary, he wished to keep them from devouring the national Govt He was not however for extinguishing these planets as was supposed by Mr. D.—neither did he on the other hand, believe that they would warm or enlighten the Sun. Within their proper orbits they must still be suffered to act for subordinate purposes, for which their existence is made essential by the great extent of our Country. He could not comprehend in what manner the landed interest wd be rendered less predominant in the Senate, by an election through the medium of the Legislatures than by the people themselves. If the Legislatures, as was now complained, sacrificed the commercial to the landed interest, what reason was there to expect such a choice from them as would defeat their own views. He was for an election by the people in large districts which wd be most likely to obtain men of intelligence & uprightness; subdividing the districts only for the accommodation of voters.

Mr Madison could as little comprehend in what manner family weight, as desired by Mr D. would be more certainly conveyed into the Senate through

elections by the State Legislatures, than in some other modes. The true question was in what mode the best choice w^d^ be made? If an election by the people, or thro' any other channel than the State Legislatures promised as uncorrupt & impartial a preference of merit, there could surely be no necessity for an appointment by those Legislatures. Nor was it apparent that a more useful check would be derived thro' that channel than from the people thro' some other. The great evils complained of were that the State Legislatures run into schemes of paper money &c. whenever solicited by the people, & sometimes without even the sanction of the people. Their influence then, instead of checking a like propensity in the National Legislature, may be expected to promote it. Nothing can be more contradictory than to say that the Nat^l^ Legislature with^t^ a proper check, will follow the example of the State Legislatures, & in the same breath, that the State Legislatures are the only proper check.

Mr Sharman opposed elections by the people in districts, as not likely to produce such fit men as elections by the State Legislatures.

Mr Gerry insisted that the commercial & monied interest w^d^ be more secure in the hands of the State Legislatures, than of the people at large. The former have more sense of character, and will be restrained by that from injustice. The people are for paper money when the Legislatures are ag^st^ it. In Mass^ts^ the County Conventions had declared a wish for a *depreciating* paper that w^d^ sink itself. Besides,

in some States there are two Branches in the Legislature, one of which is somewhat aristocratic. There w^d^ therefore be so far a better chance of refinement in the choice. There seemed, he thought to be three powerful objections ag^st^ elections by districts. 1. it is impracticable; the people cannot be brought to one place for the purpose; and whether brought to the same place or not, numberless frauds w^d^ be unavoidable. 2. small States forming part of the same district with a large one, or large part of a large one, w^d^ have no chance of gaining an appointment for its citizens of merit. 3 a new source of discord w^d^ be opened between different parts of the same district.

Mr Pinkney thought the 2^d^ branch ought to be permanent & independent; & that the members of it w^d^ be rendered more so by receiving their appointment from the State Legislatures. This mode w^d^ avoid the rivalships & discontents incident to the election by districts. He was for dividing the States into three classes according to their respective sizes, & for allowing to the 1st class three members, to the 2^d^ two, & to the 3^d^ one.

On the question for postponing Mr Dickinson's motion referring the appointment of the Senate to the State Legislatures, in order to consider Mr Wilson's for referring it to the people

Mass. no. Con^t^ no. N. Y. no. N. J. no. P^a^ ay Del. no. M^d^ no. V^a^ no. N. C. no. S. C. no. Geo. no.

Col. Mason. Whatever power may be necessary for the Nat^l^ Gov^t^ a certain portion must necessarily

be left in the States. It is impossible for one power to pervade the extreme parts of the U. S. so as to carry equal justice to them. The State Legislatures also ought to have some means of defending themselves ag^st^ encroachments of the Nat^l^ Gov^t^ In every other department we have studiously endeavoured to provide for its self-defence. Shall we leave the States alone unprovided with the means for this purpose? And what better means can we provide than the giving them some share in, or rather to make them a constituent part of, the Nat^l^ Establishment. There is danger on both sides no doubt; but we have only seen the evils arising on the side of the State Gov^ts^ Those on the other side remain to be displayed. The example of Cong^s^ does not apply. Cong^s^ had no power to carry their acts into execution, as the Nat^l^ Gov^t^ will have.

On Mr Dickinson's motion for an appointment of the Senate by the State Legislatures,

Mass. ay. C^t^ ay. N. Y. ay. P^a^ ay Del. ay. M^d^ ay. V^a^ ay N. C. ay. S. C. ay. Geo. ay.

Mr Gerry gave notice that he w^d^ tomorrow move for a reconsideration of the mode of appointing the Nat^l^ Executive in order to substitute an appointm^t^ by the State Executives

The Committee rose & The House adj^d^

FRIDAY JUNE 8TH IN COMMITTEE OF THE WHOLE.

On a reconsideration of the clause giving the Nat^l^ Legislature a negative on such laws of the States as

might be contrary to the articles of Union, or Treaties with foreign nations,

Mr. Pinkney moved "that the National Legislature shd. have authority to negative all laws which they shd. judge to be improper." He urged that such a universality of the power was indispensably necessary to render it effectual; that the States must be kept in due subordination to the nation; that if the States were left to act of themselves in any case, it wd. be impossible to defend the national prerogatives, however extensive they might be on paper; that the acts of Congress had been defeated by this means; nor had foreign treaties escaped repeated violations: that this universal negative was in fact the corner stone of an efficient national Govt.; that under the British Govt. the negative of the Crown had been found beneficial, and the *States* are more one nation now, than the *Colonies* were then.

Mr. Madison seconded the motion. He could not but regard an indefinite power to negative legislative acts of the States as absolutely necessary to a perfect System. Experience had evinced a constant tendency in the States to encroach on the federal authority; to violate national Treaties; to infringe the rights & interests of each other; to oppress the weaker party within their respective jurisdictions. A negative was the mildest expedient that could be devised for preventing these mischiefs. The existence of such a check would prevent attempts to commit them. Should no such precaution be engrafted, the only remedy wd. lie in an appeal to coercion. Was

such a remedy eligible? was it practicable? Could the national resources, if exerted to the utmost enforce a national decree agst Mass^{ts} abetted perhaps by several of her neighbours? It w^{d} not be possible. A small proportion of the Community, in a compact situation acting on the defensive, and at one of its extremities, might at any time bid defiance to the National authority. Any Gov^{t} for the U. States formed on the supposed practicability of using force agst the unconstitutional proceedings of the States, w^{d} prove as visionary & fallacious as the Gov^{t} of Cong^{s} The negative w^{d} render the use of force unnecessary. The States c^{d} of themselves pass no operative act, any more than one branch of a Legislature where there are two branches, can proceed without the other. But in order to give the negative this efficacy, it must extend to all cases. A discrimination w^{d} only be a fresh source of contention between the two authorities. In a word, to recur to the illustrations borrowed from the planetary system. This prerogative of the General Gov^{t}, is the great pervading principle that must controul the centrifugal tendency of the States; which, without it, will continually fly out of their proper orbits and destroy the order & harmony of the political System.

Mr Williamson was agst giving a power that might restrain the States from regulating their internal police.

Mr Gerry c^{d} not see the extent of such a power, and was agst every power that was not necessary. He

thought a remonstrance agst unreasonable acts of the States w^{d} reclaim them. If it sh^{d} not force might be resorted to. He had no objection to authorize a negative to paper money and similar measures. When the confederation was depending before Congress, Massachusetts was then for inserting the power of emitting paper money am^{g} the exclusive powers of Congress. He observed that the proposed negative w^{d} extend to the regulations of the Militia, a matter on which the existence of a State might depend. The Nat^{l} Legislature with such a power may enslave the States. Such an idea as this will never be acceded to. It has never been suggested or conceived among the people. No speculative projector, and there are eno' of that character among us, in politics as well as in other things, has in any pamphlet or newspaper thrown out the idea. The States too have different interests and are ignorant of each other's interests. The Negative therefore will be abused. New States too having separate views from the old States will never come into the Union. They may even be under some foreign influence; are they in such case to participate in the negative on the will of the other States?

Mr Sherman thought the cases in which the negative ought to be exercised, might be defined. He wished the point might not be decided till a trial at least sh^{d} be made for that purpose

Mr Wilson would not say what modifications of the proposed power might be practicable or expedient. But however novel it might appear the

principle of it when viewed with a close & steady eye, is right. There is no instance in which the laws say that the individual sh^d^ be bound in one case, & at liberty to judge whether he will obey or disobey in another. The cases are parallel. Abuses of the power over the individual person may happen as well as over the individual States. Federal liberty is to the States, what civil liberty, is to private individuals, and States are not more unwilling to purchase it, by the necessary concession of their political sovereignty, that the savage is to purchase Civil liberty by the surrender of the personal sovereignty, which he enjoys in a State of nature. A definition of the cases in which the Negative should be exercised, is impracticable. A discretion must be left on one side or the other? will it not be most safely lodged on the side of the Nat^l^ Gov^t^? Among the first sentiments expressed in the first Cong^s^ one was that Virg^a^ is no more, that Mass^ts^ is no [more], that P^a^ is no more &c. We are now one nation of brethren. We must bury all local interests & distinctions. This language continued for some time. The tables at length began to turn. No sooner were the State Gov^ts^ formed than their jealousy & ambition began to display themselves. Each endeavoured to cut a slice from the common loaf, to add to its own morsel, till at length the confederation became frittered down to the impotent condition in which it now stands. Review the progress of the articles of Confederation thro' Congress & compare the first & last draught of it. To correct its vices is the business of

this convention. One of its vices is the want of an effectual controul in the whole over its parts. What danger is there that the whole will unnecessarily sacrifice a part? But reverse the case, and leave the whole at the mercy of each part, and will not the general interest be continually sacrificed to local interests?

Mr Dickenson deemed it impossible to draw a line between the cases proper & improper for the exercise of the negative. We must take our choice of two things. We must either subject the States to the danger of being injured by the power of the Natl Govt or the latter to the danger of being injured by that of the States. He thought the danger greater from the States. To leave the power doubtful, would be opening another spring of discord, and he was for shutting as many of them as possible.

Mr Bedford In answer to his colleague's question, where wd be the danger to the States from this power, would refer him to the smallness of his own State which may be injured at pleasure without redress. It was meant he found to strip the small States of their equal right of suffrage. In this case Delaware would have about $\frac{1}{90}$ for its share in the General Councils, whilst Pa & Va would possess $\frac{1}{3}$ of the whole. Is there no difference of interests, no rivalship of commerce, of manufactures? Will not these large States crush the small ones whenever they stand in the way of their ambitious or interested views. This shews the impossibility of adopting such a system as that on the table, or any other founded on a change in the

priñple of representation. And after all, if a State does not obey the law of the new System, must not force be resorted to as the only ultimate remedy, in this as in any other system. It seems as if P^a^ & V^a^ by the conduct of their deputies wished to provide a system in which they would have an enormous & monstrous influence. Besides, How can it be thought that the proposed negative can be exercised? Are the laws of the States to be suspended in the most urgent cases until they can be sent seven or eight hundred miles, and undergo the deliberation of a body who may be incapable of Judging of them? Is the National Legislature too to sit continually in order to revise the laws of the States?

Mr Madison observed that the difficulties which had been started were worthy of attention and ought to be answered before the question was put. The case of laws of urgent necessity must be provided for by some emanation of the power from the Nat^l^ Gov^t^ into each State so far as to give a temporary assent at least. This was the practice in the Royal Colonies before the Revolution and would not have been inconvenient if the supreme power of negativing had been faithful to the American interest, and had possessed the necessary information. He supposed that the negative might be very properly lodged in the senate alone, and that the more numerous & expensive branch therefore might not be obliged to sit constantly. He asked Mr B. what would be the consequence to the small States of a dissolution of the Union wch seemed likely to happen if no effectual

substitute was made for the defective System existing, and he did not conceive any effectual system could be substituted on any other basis than that of a proportional suffrage? If the large States possessed the Avarice & ambition with which they were charged, would the small ones in their neighbourhood, be more secure when all controul of a Genl Gov^t was withdrawn.

Mr Butler was vehement ag^st the Negative in the proposed extent, as cutting off all hope of equal justice to the distant States. The people there would not he was sure give it a hearing.

On the question for extending the negative power to all cases as proposed by (Mr P. & Mr M.) Mass. ay. Con^t no. N. Y. no. N. J. no. P^a ay. Del. div^d Mr Read & Mr Dickenson ay. Mr Bedford & Mr Basset no. Mary^d no. V^a ay. Mr R. Mr Mason no. Mr Blair, Doc^r M^c C^g Mr M. ay. Genl W. not consulted N. C. no. S. C. no. Geo no.

On motion of Mr Gerry and Mr King tomorrow was assigned for reconsidering the mode of appointing the National Executive: the reconsideration being voted for by all the States except Connecticut & N. Carolina.

Mr Pinkney and Mr Rutlidge moved to add to the Resol^n 4. agreed to by the Com^e the following, viz. "that the States be divided into three classes, the 1st class to have 3 members, the 2^d two, & the 3^d one member each, that an estimate be taken of the comparative importance of each State at fixed periods, so as to ascertain the number of members they

may from time to time be entitled to." The Committee then rose and the House adjourned.

SATURDAY JUNE 9TH[1] MR. LUTHER MARTIN FROM MARYLAND TOOK HIS SEAT. IN COMMITTEE OF THE WHOLE

Mr. Gerry, according to previous notice given by

[1] Edward Carrington wrote to Jefferson from New York, June 9, 1787:

"The debates and proceedings of the Convention are kept in profound secrecy—opinions of the probable result of their deliberations can only be formed from the prevailing impressions of men of reflection and understanding—these are reducible to two schemes—the first, a consolidation of the whole Empire into one republic, leaving in the States nothing more than subordinate courts for facilitating the administration of the Laws—the second an investiture of the foederal sovereignty with full and independent authority as to the Trade, Revenues, and forces of the union, and the rights of peace and war, together with a negative upon all the acts of the State legislatures. The first idea, I apprehend, would be impracticable, and therefore do not suppose it can be adopted—general Laws through a Country embracing so many climates, productions, and manners as the United States, would operate many oppressions & a general legislature would be found incompetent to the formation of local ones, as a majority would in every instance, be ignorant of, and unaffected by the objects of legislation. . . . Something like the second will probably be formed—indeed I am certain that nothing less than what will give the foederal sovereignty a compleat controul over the state Governments, will be thought worthy of discussion—such a scheme constructed upon well adjusted principles would certainly give us stability and importance as a nation, and if the Executive powers can be sufficiently checked, must be eligible—unless the whole has a decided influence over the parts, the constant effort will be to resume the delegated powers, and there cannot be an inducement in the foederal sovereignty to refuse its assent to an innocent act of a State. . . . The Eastern opinions are for a total surrender of the state Sovereignties, and indeed some amongst them go to a monarchy at once—they have verged to anarchy, while to the southward we have only felt an inconvenience, and their proportionate disposition to an opposite extreme is a natural consequence."—*Jeff. MSS.*

him, moved "that the national Executive should be elected by the Executives of the States whose proportion of votes should be the same with that allowed to the States in the election of the Senate." If the appointm^{t} should be made by the Nat^{l} Legislature, it would lessen that independence of the Executive which ought to prevail, would give birth to intrigue and corruption between the Executive & Legislature previous to the election, and to partiality in the Executive afterwards to the friends who promoted him. Some other mode therefore appeared to him necessary. He proposed that of appointing by the State Executives as most analogous to the principle observed in electing the other branches of the Nat^{l} Gov^{t}; the first branch being chosen by the *people* of the States, & the 2^{d} by the Legislatures of the States, he did not see any objection agst letting the Executive be appointed by the Executives of the States. He supposed the Executives would be most likely to select the fittest men, and that it would be their interest to support the man of their own choice.

Mr Randolph, urged strongly the inexpediency of Mr Gerry's mode of appointing the Nat^{l} Executive. The confidence of the people would not be secured by it to the Nat^{l} magistrate. The small States would lose all chance of an appointm^{t} from within themselves. Bad appointments would be made; the Executives of the States being little conversant with characters not within their own small spheres. The State Executives too notwithstanding their constitutional independence, being in fact dependent on

the State Legislatures will generally be guided by the views of the latter, and prefer either favorites within the States, or such as it may be expected will be most partial to the interests of the State. A Nat.l Executive thus chosen will not be likely to defend with becoming vigilance & firmness the National rights ag.st State encroachments. Vacancies also must happen. How can these be filled? He could not suppose either that the Executives would feel the interest in supporting the Nat.l Executive which had been imagined. They will not cherish the great Oak which is to reduce them to paltry shrubs.

On the question for referring the appointment of the Nat.l Executive to the State Executives as prop.d by M.r Gerry Mass.ts no. Con.t no. N. Y. no. N. J. no. P.a no. Del. div.d M.d no. V.a no. S. C. no. Geo. no.[1]

M.r Patterson moves that the Committee resume the clause relating to the rule of suffrage in the Nat.l Legislature.

M.r Brearly[2] seconds him. He was sorry he said that any question on this point was brought into view. It had been much agitated in Cong.s at the

[1] "Carried against the motion, 10 noes, and Delaware divided."—Yates, *Secret Proceedings*, etc., 111. The Journal also includes North Carolina among the noes.—*Journal of the Federal Convention*, 110.

[2] "Mr. Brearly is a man of good, rather than of brilliant parts. He is a Judge of the Supreme Court of New Jersey, and is very much in the esteem of the people. As an Orator he has little to boast of, but as a Man he has every virtue to recommend him. Mr. Brearly is about 40 years of age."—Pierce's Notes, *Am. Hist. Rev.*, iii., 327.

time of forming the Confederation, and was then rightly settled by allowing to each sovereign State an equal vote. Otherwise the smaller States must have been destroyed instead of being saved. The substitution of a ratio, he admitted carried fairness on the face of it; but on a deeper examination was unfair and unjust. Judging of the disparity of the States by the quota of Cong.s, Virg.a would have 16 votes, and Georgia but one. A like proportion to the others will make the whole number ninety. There will be 3 large states, and 10 small ones. The large States by which he meant Mass.ts Pen.a & Virg.a will carry every thing before them. It had been admitted, and was known to him from facts within N. Jersey that where large & small counties were united into a district for electing representatives for the district, the large counties always carried their point, and Consequently that the large States would do so. Virg.a with her sixteen votes will be a solid column indeed, a formidable phalanx. While Georgia with her Solitary vote, and the other little States will be obliged to throw themselves constantly into the scale of some large one, in order to have any weight at all. He had come to the convention with a view of being as useful as he could in giving energy and stability to the federal Government. When the proposition for destroying the equality of votes came forward, he was astonished, he was alarmed. Is it fair then it will be asked that Georgia should have an equal vote with Virg.a? He would not say it was. What remedy then? One only, that a map of the

U. S. be spread out, that all the existing boundaries be erased, and that a new partition of the whole be made into 13 equal parts.

Mr. Patterson considered the proposition for a proportional representation as striking at the existence of the lesser States. He wd. premise however to an investigation of this question some remarks on the nature structure and powers of the Convention. The Convention he said was formed in pursuance of an Act of Congs. that this act was recited in several of the Commissions, particularly that of Masts. which he required to be read: that the amendment of the Confederacy was the object of all the laws and Commissions on the subject: that the articles of the Confederation were therefore the proper basis of all the proceedings of the Convention. We ought to keep within its limits, or we should be charged by our Constituents with usurpation, that the people of America were sharpsighted and not to be deceived. But the Commissions under which we acted were not only the measure of our power, they denoted also the sentiments of the States on the subject of our deliberation. The idea of a National Govt. as contradistinguished from a federal one, never entered into the mind of any of them, and to the public mind we must accommodate ourselves. We have no power to go beyond the federal Scheme, and if we had the people are not ripe for any other. We must follow the people; the people will not follow us.— The *proposition* could not be maintained whether considered in reference to us as a nation, or as a con-

federacy. A confederacy supposes sovereignty in the members composing it & sovereignty supposes equality. If we are to be considered as a nation, all State distinctions must be abolished, the whole must be thrown into hotchpot, and when an equal division is made, then there may be fairly an equality of representation. He held up Virg^{a} Mass^{ts} & P^{a} as the three large States, and the other ten as small ones; repeating the calculations of Mr Brearly, as to the disparity of votes which w^{d} take place, and affirming that the small States would never agree to it. He said there was no more reason that a great individual State contributing much, should have more votes than a small one contributing little, than that a rich individual citizen should have more votes than an indigent one. If the rateable property of A was to that of B as 40 to 1, ought A for that reason to have 40 times as many votes as B. Such a principle would never be admitted, and if it were admitted would put B entirely at the mercy of A. As A. has more to be protected than B so he ought to contribute more for the common protection. The same may be said of a large State wch has more to be protected than a small one. Give the large States an influence in proportion to their magnitude, and what will be the consequence? Their ambition will be proportionally increased, and the small States will have every thing to fear. It was once proposed by Galloway & some others that America should be represented in the British Parl^{t} and then be bound by its laws. America could not have been entitled

to more than $\frac{1}{3}$ of the n° of Representatives which would fall to the share of G. B. Would American rights & interests have been safe under an authority thus constituted? It has been said that if a Nat.l Gov.t is to be formed so as to operate on the people, and not on the States, the representatives ought to be drawn from the people. But why so? May not a Legislature filled by the State Legislatures operate on the people who chuse the State Legislatures? or may not a practicable coercion be found. He admitted that there was none such in the existing System.—He was attached strongly to the plan of the existing Confederacy, in which the people chuse their Legislative representatives; and the Legislatures their federal representatives. No other amendments were wanting than to mark the orbits of the States with due precision, and provide for the use of coercion, which was the great point. He alluded to the hint thrown out heretofore by M.r Wilson of the necessity to which the large States might be reduced of confederating among themselves, by a refusal of the others to concur. Let them unite if they please, but let them remember that they have no authority to compel the others to unite. N. Jersey will never confederate on the plan before the Committee. She would be swallowed up. He had rather submit to a monarch, to a despot, than to such a fate. He would not only oppose the plan here but on his return home do every thing in his power to defeat it there.

M.r Wilson, hoped if the Confederacy should be dissolved, that a *majority*, that a *minority* of the

States would unite for their safety. He entered elaborately into the defence of a proportional representation, stating for his first position that as all authority was derived from the people, equal numbers of people ought to have an equal n^{o} of representatives, and different numbers of people different numbers of representatives. This principle had been improperly violated in the Confederation, owing to the urgent circumstances of the time. As to the case of A. & B. stated by Mr Patterson, he observed that in districts as large as the States, the number of people was the best measure of their comparative wealth. Whether therefore wealth or numbers were to form the ratio it would be the same. Mr P. admitted persons, not property to be the measure of suffrage. Are not the Citizens of Pen^{a} equal to those of N. Jersey? does it require 150 of the former to balance 50 of the latter? Representatives of different districts ought clearly to hold the same proportion to each other, as their respective Constituents hold to each other. If the small States will not confederate on this plan, Pen^{a} & he presumed some other States, would not confederate on any other. We have been told that each State being sovereign, all are equal. So each man is naturally a sovereign over himself, and all men are therefore naturally equal. Can he retain this equality when he becomes a member of Civil Government. He can not. As little can a Sovereign State, when it becomes a member of a federal govern^{t} If N. J. will not part with her sovereignty it is vain to talk of Gov^{t} A new

partition of the States is desirable, but evidently & totally impracticable.

Mr. Williamson illustrated the cases by a comparison of the different States, to Counties of different sizes within the same State; observing that proportional representation was admitted to be just in the latter case, and could not therefore be fairly contested in the former.

The Question being about to be put Mr. Patterson hoped that as so much depended on it, it might be thought best to postpone the decision till tomorrow, which was done, nem. con.

The Comte rose & the House adjourned.

MONDAY, JUNE 11TH. Mr. Abraham Baldwin from Georgia took his seat. In Committee of the Whole.

The clause concerning the rule of suffrage in the Natl. Legislature postponed on saturday was resumed.

Mr. Sharman proposed that the proportion of suffrage in the 1st. branch should be according to the respective numbers of free inhabitants; and that in the second branch or Senate, each State should have one vote and no more. He said as the States would remain possessed of certain individual rights, each State ought to be able to protect itself: otherwise a few large States will rule the rest. The House of Lords in England he observed had certain particular rights under the Constitution, and hence they have an equal vote with the House of Commons that they may be able to defend their rights.

Mr. Rutlidge proposed that the proportion of suffrage in the 1st branch should be according to the quotas of contribution. The justice of this rule he said could not be contested. Mr. Butler urged the same idea: adding that money was power; and that the States ought to have weight in the Gov.t in proportion to their wealth.

Mr. King & Mr. Wilson,[1] in order to bring the question to a point moved "that the right of suffrage in the first branch of the national Legislature ought not to be according [to] the rule established in the articles of Confederation, but according to some equitable ratio of representation." The clause so far as it related to suffrage in the first branch was postponed in order to consider this motion.

Mr. Dickenson contended for the *actual* contributions of the States as the rule of their representation & suffrage in the first branch. By thus connecting the interests of the States with their duty, the latter would be sure to be performed.

Mr. King remarked that it was uncertain what mode might be used in levying a National revenue; but that it was probable, imposts would be one source of it. If the *actual* contributions were to be the rule the non-importing States, as Con.t & N. Jersey, w.d be in a bad situation indeed. It might so happen that they w.d have no representation. This situation of particular States had been always one powerful argument in favor of the 5 Per C.t impost.

[1] In the printed Journal Mr. Rutlidge is named as the seconder of the motion.—Madison's note.

The question being ab^t to be put Doc^r Franklin s^d he had thrown his ideas of the matter on a paper wch Mr. Wilson read to the Committee in the words following—Mr. Chairman

It has given me great pleasure to observe that till this point, the proportion of representation, came before us, our debates were carried on with great coolness & temper. If any thing of a contrary kind, has on this occasion appeared. I hope it will not be repeated; for we are sent here to *consult*, not to *contend*, with each other; and declarations of a fixed opinion, and of determined resolution, never to change it, neither enlighten nor convince us. Positiveness and warmth on one side, naturally beget their like on the other; and tend to create and augment discord & division in a great concern, wherein harmony & Union are extremely necessary to give weight to our Councils, and render them effectual in promoting & securing the common good.

I must own that I was originally of opinion it would be better if every member of Congress, or our national Council, were to consider himself rather as a representative of the whole, than as an Agent for the interests of a particular State; in which case the proportion of members for each State would be of less consequence, & it would not be very material whether they voted by States or individually. But as I find this is not to be expected, I now think the number of Representatives should bear some proportion to the number of the Represented; and that the decisions sh^d be by the majority of members, not

by the majority of the States. This is objected to from an apprehension that the greater States would then swallow up the smaller. I do not at present clearly see what advantage the greater States could propose to themselves by swallowing up the smaller, and therefore do not apprehend they would attempt it. I recollect that in the beginning of this Century, When the Union was proposed of the two Kingdoms, England & Scotland, the Scotch Patriots were full of fears, that unless they had an equal number of Representatives in Parliament, they should be ruined by the superiority of the English. They finally agreed however that the different proportions of importance in the Union, of the two Nations should be attended to, whereby they were to have only forty members in the House of Commons, and only sixteen in the House of Lords; A very great inferiority of numbers! And yet to this day I do not recollect that any thing has been done in the Parliament of Great Britain to the prejudice of Scotland; and whoever looks over the lists of Public officers, Civil & Military of that nation will find I believe that the North Britons enjoy at least their full proportion of emolument.

But, sir, in the present mode of voting by States, it is equally in the power of the lesser States to swallow up the greater; and this is mathematically demonstrable. Suppose for example, that 7 smaller States had each 3 members in the House, and the 6 larger to have one with another 6 members; and that upon a question, two members of each smaller State

should be in the affirmative and one in the Negative, they would make

Affirmatives	14	Negatives	7
And that all the larger States should be unanimously in the Negative, they would make		Negatives	36
In all			43

It is then apparent that the 14 carry the question against the 43. and the minority overpowers the majority, contrary to the common practice of Assemblies in all Countries and Ages.

The greater States Sir are naturally as unwilling to have their property left in the disposition of the smaller, as the smaller are to have theirs in the disposition of the greater. An honorable gentleman has, to avoid this difficulty, hinted a proposition of equalizing the States. It appears to me an equitable one, and I should, for my own part, not be against such a measure, if it might be found practicable. Formerly, indeed, when almost every province had a different Constitution, some with greater others with fewer privileges, it was of importance to the borderers when their boundaries were contested, whether by running the division lines, they were placed on one side or the other. At present when such differences are done away, it is less material. The Interest of a State is made up of the interests of its individual members. If they are not injured, the State is not injured. Small States are

more easily well & happily governed than large ones. If therefore in such an equal division, it should be found necessary to diminish Pennsylvania, I should not be averse to the giving a part of it to N. Jersey, and another to Delaware. But as there would probably be considerable difficulties in adjusting such a division; and however equally made at first, it would be continually varying by the augmentation of inhabitants in some States, and their fixed proportion in others; and thence frequent occasion for new divisions, I beg leave to propose for the consideration of the Committee another mode, which appears to me to be as equitable, more easily carried into practice, and more permanent in its nature.

Let the weakest State say what proportion of money or force it is able and willing to furnish for the general purposes of the Union.

Let all the others oblige themselves to furnish each an equal proportion.

The whole of these joint supplies to be absolutely in the disposition of Congress.

The Congress in this case to be composed of an equal number of Delegates from each State.

And their decisions to be by the Majority of individual members voting.

If these joint and equal supplies should on particular occasions not be sufficient, Let Congress make requisitions on the richer and more powerful States for further aids, to be voluntarily afforded, leaving to each State the right of considering the necessity

and utility of the aid desired, and of giving more or less as it should be found proper.

This mode is not new. it was formerly practised with success by the British Government with respect to Ireland and the Colonies. We sometimes gave even more than they expected, or thought just to accept; and in the last war carried on while we were united, they gave us back in 5 years a million Sterling. We should probably have continued such voluntary contributions, whenever the occasions appeared to require them for the common good of the Empire. It was not till they chose to force us, and to deprive us of the merit and pleasure of voluntary contributions that we refused & resisted. Those contributions however were to be disposed of at the pleasure of a Government in which we had no representative. I am therefore persuaded, that they will not be refused to one in which the Representation shall be equal.

My learned colleague (Mr Wilson) has already mentioned that the present method of voting by States, was submitted to originally by Congress, under a conviction of its impropriety, inequality, and injustice. This appears in the words of their Resolution. It is of Sepr 6. 1774. The words are

"Resolved that in determining questions in this Congs each Colony or province shall have one vote: The Congs not being possessed of or at present able to procure materials for ascertaining the importance of each Colony."

On the question for agreeing to Mr. King's and Mr. Wilsons motion it passed in the affirmative

Mass.ts ay. Ct. ay. N. Y. no. N. J. no. Pa. ay. Del. no. Md. divd. Va. ay. N. C. ay. S. C. ay. Geo. ay.

It was then moved by Mr. Rutlidge, 2ded. by Mr. Butler to add to the words "equitable ratio of representation" at the end of the motion just agreed to, the words "according to the quotas of contribution." On motion of Mr. Wilson seconded by Mr. Pinkney, this was postponed; in order to add, after the words "equitable ratio of representation" the words following: "in proportion to the whole number of white & other free Citizens & inhabitants of every age sex & condition including those bound to servitude for a term of years and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State," this being the rule in the Act of Congress agreed to by eleven States, for apportioning quotas of revenue on the States, and requiring a Census only every 5, 7, or 10 years.

Mr. Gerry thought property not the rule of representation. Why then shd. the blacks, who were property in the South, be in the rule of representation more than the Cattle & horses of the North.[1]

On the question,—Mass: Con: N. Y. Pen: Maryd.

[1] After Gerry spoke, according to Yates, "Mr. Madison was of opinion at present, to fix the standard of representation, and let the detail be the business of a sub-committee."—*Secret Proceedings*, p. 116.

Virg^{a} N. C. S. C. & Geo: were in the affirmative: N. J. & Del: in the negative.

Mr Sharman moved that a question be taken whether each State shall have one vote in the 2^{d} branch. Every thing he said depended on this. The smaller States would never agree to the plan on any other principle than an equality of suffrage in this branch. Mr Elsworth[1] seconded the motion. On the question for allowing each State one vote in the 2^{d} branch,

Mass^{ts} no. Con^{t} ay. N. Y. ay. N. J. ay. P^{a} no. Del. ay. M^{d} ay. V^{a} no. N. C. no. S. C. no. Geo. no.

Mr Wilson & Mr Hamilton moved that the right of suffrage in the 2^{d} branch ought to be according to the same rule as in the 1st branch. On this question for making the ratio of representation the same in the 2^{d} as in the 1st branch it passed in the affirmative;

Mass^{ts} ay. Con^{t} no. N. Y. no. N. J. no. P^{a} ay. Del. no. M^{d} no. V^{a} ay. N. C. ay. S. C. ay. Geo. ay.

Resol: 11, for guarantying Republican Gov^{t} & territory to each State, being considered—the words "or partition," were, on motion of Mr Madi-

[1] "Mr Elsworth is a Judge of the Supreme Court in Connecticut;—he is Gentleman of a clear, deep, and copius understanding; eloquent, and connected in public debate; and always attentive to his duty. He is very happy in a reply, and choice in selecting such parts of his adversary's arguments as he finds make the strongest impressions,—in order to take off the force of them, so as to admit the power of his own. Mr Elsworth is about 37 years of age, a Man much respected for his integrity, and venerated for his abilities."—Pierce's Notes, *Am. Hist. Rev.*, iii., 326.

son added, after the words "voluntary junction;"

Mas. N. Y. P. V^a N. C. S. C. G. ay. Con: N. J. Del: M^d no.

Mr Read disliked the idea of guarantying territory. It abetted the idea of distinct States wch would be a perpetual source of discord. There can be no cure for this evil but in doing away States altogether and uniting them all into one great Society.

Alterations having been made in the Resolution, making it read, "that a Republican Constitution & its existing laws ought to be guaranteed to each State by the U. States," the whole was agreed to nem. con.[1]

Resolution 13. for amending the national Constitution hereafter without consent of the Nat^l Legislature being considered, Several members did not see the necessity of the Resolution at all, nor the propriety of making the consent of the Nat^l Legisl. unnecessary.

Col. Mason urged the necessity of such a provision. The plan now to be formed will certainly be defective, as the Confederation has been found on trial to be. Amendments therefore will be necessary, and it will be better to provide for them, in an easy, regular and Constitutional way than to trust to chance and violence. It would be improper to require the consent of the Nat^l Legislature, because they may

[1] Yates attributes this amendment to Madison. "Mr. Madison moved an amendment, to add to or alter the resolution as follows: The republican constitutions and the existing laws of each state, to be guaranteed by the United States."—*Secret Proceedings*, etc., 116.

abuse their power, and refuse their consent on that very account. The opportunity for such an abuse, may be the fault of the Constitution calling for amendm^t.

Mr Randolph enforced these arguments.

The words, "without requiring the consent of the Nat^l Legislature" were postponed. The other provision in the clause passed nem. con.

Resolution 14. requiring oaths from the members of the State Gov^ts to observe the Nat^l Constitution & laws, being considered,[1]

Mr Sharman opposed it as unnecessarily intruding into the State jurisdictions.

Mr Randolph considered it necessary to prevent that competition between the National Constitution & laws & those of the particular States, which had already been felt. The officers of the States are already under oath to the States. To preserve a due impartiality they ought to be equally bound to the Nat^l Gov^t. The Nat^l authority needs every support we can give it. The Executive & Judiciary of the States, notwithstanding their nominal independence on the State Legislatures are in fact, so dependent on them, that unless they be brought under some tie to the Nat^l System, they will always lean too much to the State systems, whenever a contest arises between the two.

Mr Gerry did not like the clause. He thought

[1] "Mr. Williamson. This resolve will be unnecessary, as the union will become the law of the land."—Yates, *Secret Proceedings*, etc., 117.

there was as much reason for requiring an oath of fidelity to the States from Nat^l officers, as vice versa.

Mr Luther Martin moved to strike out the words requiring such an oath from the State officers, viz "within the several States," observing that if the new oath should be contrary to that already taken by them it would be improper; if coincident the oaths already taken will be sufficient.

On the question for striking out as proposed by Mr. L. Martin

Mass^ts no. Con^t ay. N. Y. no. N. J. ay. P^a no. Del. ay. M^d ay. V^a no. N. C. no. S. C. no. Geo. no.

Question on whole Resolution as proposed by Mr Randolph;

Mass^ts ay. Con^t no. N. Y. no. N. J. no. P^a ay. Del. no. M^d no. V^a ay. N. C. ay. S. C. ay. Geo. ay.

Com^e rose & House Adj^d

TUESDAY JUNE 12TH IN COMMITTEE OF WHOLE

The Question taken on the Resolution 15, to wit, referring the new system to the people of the States for ratification it passed in the affirmative Mass^ts ay. Con^t no. N. Y. no. N. J. no. P^a[1] ay. Del. div^d M^d div^d V^a ay. N. C. ay. S. C. ay. Geo. ay.

[1] Pennsylvania omitted in the printed Journal. The vote is there entered as of June 11th.—Madison's Note.

Mr. Sharman & Mr. Elseworth moved to fill the blank left in the 4th Resolution for the periods of electing the members of the first branch with the words, "every year;" Mr. Sharman observing that he did it in order to bring on some question.

Mr. Rutlidge proposed "every two years."

Mr. Jennifer[1] propd, "every three years," observing that the too great frequency of elections rendered the people indifferent to them, and made the best men unwilling to engage in so precarious a service.

Mr. Madison seconded the motion for three years. Instability is one of the great vices of our republics, to be remedied. Three years will be necessary, in a Government so extensive, for members to form any knowledge of the various interests of the States to which they do not belong, and of which they can know but little from the situation and affairs of their own. One year will be almost consumed in preparing for and travelling to & from the seat of national business.

Mr. Gerry. The people of New England will never give up the point of annual elections, they know of the transition made in England from trien-

[1] "Mr. Jenifer is a Gentleman of fortune in Maryland;—he is always in good humour, and never fails to make his company pleased with him. He sits silent in the Senate, and seems to be conscious that he is no politician. From his long continuance in single life, no doubt but he has made the vow of celibacy. He speaks warmly of the Ladies notwithstanding. Mr. Jenifer is about 55 years of Age, and once served as Aid de Camp to Major Genl. Lee."—Pierce's Notes, *Am. Hist. Rev.*, iii., 330.

nial to septennial elections, and will consider such an innovation here as the prelude to a like usurpation. He considered annual elections as the only defence of the people ag^st^ tyranny. He was as much ag^st^ a triennial House as ag^st^ a hereditary Executive.

Mr Madison, observed that if the opinions of the people were to be our guide, it w^d^ be difficult to say what course we ought to take. No member of the Convention could say what the opinions of his Constituents were at this time; much less could he say what they would think if possessed of the information & lights possessed by the members here; & still less what would be their way of thinking 6 or 12 months hence. We ought to consider what was right & necessary in itself for the attainment of a proper Governm^t^ A plan adjusted to this idea will recommend itself—The respectability of this convention will give weight to their recommendation of it. Experience will be constantly urging the adoption of it, and all the most enlightened & respectable citizens will be its advocates. Should we fall short of the necessary & proper point, this influential class of Citizens, will be turned against the plan, and little support in opposition to them can be gained to it from the unreflecting multitude.

Mr Gerry repeated his opinion that it was necessary to consider what the people would approve. This had been the policy of all Legislators. If the reasoning of Mr. Madison were just, and we supposed a limited Monarchy the best form in itself, we ought to recommend it, tho' the genius of the people

was decidedly adverse to it, and having no hereditary distinctions among us, we were destitute of the essential materials for such an innovation.

On the question for the triennial election of the 1st branch

Mass. no. (Mr King ay.) Mr Ghorum wavering. Cont no. N. Y. ay. N. J. ay. Pa ay. Del. ay. Md ay. Va ay. N. C. no. S. C. no. Geo. ay.

The words requiring members of ye 1st branch to be of the age of ——— years were struck out Maryland alone no The words "*liberal compensation for members*," being considd Mr Madison moves to insert the words, "*& fixt.*" He observed that it would be improper to leave the members of the Natl legislature to be provided for by the State Legisls, because it would create an improper dependence; and to leave them to regulate their own wages, was an indecent thing, and might in time prove a dangerous one. He thought wheat or some other article of which the average price throughout a reasonable period preceding might be settled in some convenient mode, would form a proper standard.

Col. Mason seconded the motion; adding that it would be improper for other reasons to leave the wages to be regulated by the States. 1. the different States would make different provision for their representatives, and an inequality would be felt among them, whereas he thought they ought to be in all respects equal. 2. the parsimony of the States might reduce the provision so low that as had already happened in choosing delegates to Congress, the question

would be not who were most fit to be chosen, but who were most willing to serve.

On the question for inserting the words, "and fixt"

Mass^{ts} no. Con^{t} no. N. Y. ay. N. J. ay. P^{a} ay. Del. ay. M^{d} ay. V^{a} ay. N. C. ay. S. C. no. Geo. ay.

Doc^{r} Franklyn said he approved of the amendment just made for rendering the salaries as fixed as possible; but disliked the word "*liberal.*" He would prefer the word moderate if it was necessary to substitute any other. He remarked the tendency of abuses in every case, to grow of themselves when once begun, and related very pleasantly the progression in ecclesiastical benefices, from the first departure from the gratuitous provision for the Apostles, to the establishment of the papal system. The word "liberal" was struck out nem con.

On the motion of Mr Pierce, that the wages should be paid out of the National Treasury, Mass^{ts} ay. C^{t} no. N. Y. no. N. J. ay. P^{a} ay. Del. ay. M^{d} ay. V^{a} ay. N. C. ay. S. C. no. G. ay.

Question on the clause relating to term of service & compensation of 1st branch,

Mass^{ts} ay. C^{t} no. N. Y. no. N. J. ay. P^{a} ay. Del. ay. M^{d} ay. V^{a} ay. N. C. ay. S. C. no. Geo. ay.

On a question for striking out the "*ineligibility* of members of the Nat^{l} Legis: to *State offices*,"

Mass^{ts} div^{d} Con^{t} ay. N. Y. ay. N. J. no. P^{a} no. Del. no. M^{d} div^{d} V^{a} no. N. C. ay. S. C. ay. Geo. no.

On the question for agreeing to the clause as amended,

Mass^{ts} ay. Con^{t} no. N. Y. ay. N. J. ay. P^{a} ay. Del. ay. M^{d} ay. V^{a} ay. N. C. ay. S. C. ay. Geo. ay.

On a question for making members of the Nat^{l} Legislature *ineligible* to any office under the Nat. Gov^{t} for the term of 3 years after ceasing to be members,

Mass^{ts} no. Con^{t} no. N. Y. no. N. J. no. P^{a} no. Del. no. M^{d} ay. V^{a} no. N. C. no. S. C. no. Geo. no.

On the question for such ineligibility for one year,

Mass^{ts} ay. C^{t} ay. N. Y. no. N. J. ay. P^{a} ay. Del. ay. M^{d} div^{d} V^{a} ay. N. C. ay. S. C. ay. Geo. no.

On question moved by Mr. Pinckney, for striking out "incapable of re-election into 1st branch of the Nat^{l} Legisl. for ——— years, and subject to recall" ag^{d} to nem. con.

On question for striking out from the Resol: 5 the words requiring members of the Senatorial branch to be of the age of ——— years at least

Mass^{ts} no. Con^{t} ay. N. Y. no. N. J. ay. P^{a} ay. Del. no. M^{d} no. V^{a} no. N. C. div^{d} S. C. no. Geo. div^{d}

On the question for filling the blank with 30 years as the qualification; it was agreed to,

Mass^{ts} ay. C^{t} no. N. Y. ay. N. J. no. P^{a} ay. Del. no. M^{d} ay. V^{a} ay. N. C. ay. S. C. ay. Geo. no.

Mr Spaight moved to fill the blank for the dura-

tion of the appointm^{ts} to the 2^{d} branch of the National Legislature with the words "7 years.

Mr Sherman, thought 7 years too long. He grounded his opposition he said on the principle that if they did their duty well, they would be reelected. And if they acted amiss, an earlier opportunity should be allowed for getting rid of them. He preferred 5 years which w^{d} be between the terms of the 1st branch & of the executive

Mr Pierce proposed 3 years. 7 years would raise an alarm. Great mischiefs had arisen in England from their septennial Act which was reprobated by most of their patriotic Statesmen.

Mr Randolph was for the term of 7 years. The democratic licentiousness of the State Legislatures proved the necessity of a firm Senate. The object of this 2^{d} branch is to controul the democratic branch of the Nat^{l} Legislature. If it be not a firm body, the other branch being more numerous, and coming immediately from the people, will overwhelm it. The Senate of Maryland constituted on like principles had been scarcely able to stem the popular torrent. No mischief can be apprehended, as the concurrence of the other branch, and in some measure, of the Executive, will in all cases be necessary. A firmness & independence may be the more necessary also in this branch, as it ought to guard the Constitution agst encroachments of the Executive who will be apt to form combinations with the demagogues of the popular branch.

Mr Madison, considered 7 years as a term by no

means too long. What we wished was to give to the Gov^{t} that stability which was every where called for, and which the Enemies of the Republican form alledged to be inconsistent with its nature. He was not afraid of giving too much stability by the term of Seven years. His fear was that the popular branch would still be too great an overmatch for it. It was to be much lamented that we had so little direct experience to guide us. The Constitution of Maryland was the only one that bore any analogy to this part of the plan. In no instance had the Senate of Mary^{d} created just suspicions of danger from it. In some instances perhaps it may have erred by yielding to the H. of Delegates. In every instance of their opposition to the measures of the H. of D. they had had with them the suffrages of the most enlightened and impartial people of the other States as well as of their own. In the States where the Senates, were chosen in the same manner as the other branches, of the Legislature, and held their seats for 4 years, the institution was found to be no check whatever agst the instabilities of the other branches. He conceived it to be of great importance that a stable & firm Gov^{t}, organized in the republican form should be held out to the people. If this be not done, and the people be left to judge of this species of Gov^{t} by ye operations of the defective systems under which they now live, it is much to be feared the time is not distant when, in universal disgust, they will renounce the blessing which they have purchased at so dear a rate, and

be ready for any change that may be proposed to them.

On the question for "seven years" as the term for the 2d branch Massts divided. (Mr King, Mr Ghorum ay, Mr Gerry, Mr Strong, no) Cont no. N. Y. divd N. J. ay. Pa ay. Del. ay. Md ay. Va ay. N. C. ay. S. C. ay. Geo. ay.

Mr Butler and Mr Rutlidge proposed that the members of the 2d branch should be entitled to no salary or compensation for their services. On the question,[1]—

Massts divd Cont ay. N. Y. no. N. J. no. P. no. Del. ay. Md no. Va no. N. C. no. S. C. ay. Geo. no.

It was then moved & agreed that the clauses respecting the stipends & ineligibility of the 2d branch be the same as, of the 1st branch:—Con: disagreeing to the ineligibility.

It was moved & 2ded to alter the Resol: 9. so as to read "that the jurisdiction of the supreme tribunal shall be to hear & determine in the dernier resort, all piracies, felonies, &c."

It was moved & 2ded to strike out "all piracies & felonies on the high seas," which was agreed to.

It was moved & agreed to strike out "all captures from an enemy."

It was moved & agreed to strike out "other

[1] (It is probable ye votes here turned chiefly on the idea that if the salaries were not here provided for, the members would be paid by their respective States) This note for the bottom margin.—Madison's Note.

States" and insert "two distinct States of the Union"

It was moved & agreed to postpone the consideration of the Resolution 9, relating to the Judiciary:

The Com^e then rose & the House Adjourned

WEDNESDAY JUNE 13.[1] IN COMMITTEE OF THE WHOLE

Resol: 9 being resumed

The latter parts of the clause relating to the jurisdiction of the Nat^l tribunals, was struck out nem. con in order to leave full room for their organization.

Mr Randolph & Mr Madison, then moved the following resolution respecting a National Judiciary,

[1] Edward Carrington wrote to Madison from New York, June 13, 1787:

"The public mind is now on the point of a favourable turn to the objects of your meeting, and, being fairly met with the result, will, I am persuaded, eventually embrace it—being calculated for the permanent fitness, and not the momentary habits of the country, it may at first be viewed with hesitation, but derived and patronized as it will be, its influence must extend into an adoption as the present fabric gives way—the work once well done will be done forever, but patched up in accommodation to the whim of the day, it will soon require the hand of the cobbler again, and in every unfortunate experiment the materials are rendered the less fit for that monument of civil liberty which we wish to erect.—Constitute a federal Government, invigorate & check it well—give it then independent powers over the Trade the Revenues, and force of the Union, and all things that involve any relationship to foreign powers—give it also the revisal of all State acts—unless it possesses a compleat controul over the State Governments, the constant effort will be to resume the delegated powers,—nor do I see what inducement the federal sovereignty can have to negative an innocent act of a State—Constitute it in such

viz "that the jurisdiction of the National Judiciary shall extend to cases, which respect the collection of the national revenue, impeachments of any national officers, and questions which involve the national peace and harmony" which was agreed to.

Mr Pinkney & Mr Sherman moved to insert after the words "one supreme tribunal" the words "the Judges of which to be appointed by the National Legislature."

Mr Madison, objected to an appt by the whole Legislature. Many of them were incompetent Judges of the requisite qualifications. They were too much influenced by their partialities. The candidate who was present, who had displayed a talent for business in the legislative field, who had perhaps assisted ignorant members in business of their own,

shape that, its first principles being preserved, it will be a good republic—I wish to see that system have a fair experiment—but let the liability to encroachment be rather from the federal, than the State, governments—in the first case we shall insensibly glide into a monarchy: in the latter nothing but anarchy can be the consequence.

"Some Gentlemen think of a total surrender of the State Sovereignty —I see not the necessity of that measure for giving us national stability in consequence—the negative of the federal sovereignty will effectually prevent the existence of any licentious or inconsiderate act—and I believe that even under a new monarchy it would be found necessary thus to continue the local administration—general Laws would operate many particular [undecipherable] and a general legislature would be found incompetent to the formation of local ones—the interest of the United States may be well combined for the common good—but the affairs of so extensive a country are not to be thrown into one mass—an attempt to confederate upon terms materially opposed to the particular Interests would in all probability occasion a dismemberment, and in that event, within a long time yet to come, the prospects of commerce will be at an end as to any degree of national importance, let her fate be what it may as to freedom or vassalage."—*Mad. MSS.*

or of their Constituents, or used other winning means, would without any of the essential qualifications for an expositor of the laws prevail over a competitor not having these recommendations, but possessed of every necessary accomplishment. He proposed that the appointment should be made by the Senate, which as a less numerous & more select body, would be more competent judges, and which was sufficiently numerous to justify such a confidence in them.

Mr. Sharman & Mr. Pinkney withdrew their motion, and the appt. by the Senate was agd. to nem. con.

Mr. Gerry moved to restrain the Senatorial branch from originating money bills. The other branch was more immediately the representatives of the people, and it was a maxim that the people ought to hold the Purse-strings. If the Senate should be allowed to originate such bills, they wd. repeat the experiment, till chance should furnish a sett of representatives in the other branch who will fall into their snares.

Mr. Butler saw no reason for such a discrimination. We were always following the British Constitution when the reason of it did not apply. There was no analogy between the H. of Lords and the body proposed to be established. If the Senate should be degraded by any such discriminations, the best men would be apt to decline serving in it in favor of the other branch. And it will lead the latter into the practice of tacking other clauses to money bills.

M^r. Madison observed that the Comentators on the Brit: Const: had not yet agreed on the reason of the restriction on the H. of L. in money bills. Certain it was there could be no similar reason in the case before us. The Senate would be the representatives of the people as well as the 1st. branch. If they s^d. have any dangerous influence over it, they would easily prevail on some member of the latter to originate the bill they wished to be passed. As the Senate would be generally a more capable sett of men, it w^d. be wrong to disable them from any preparation of the business, especially of that which was most important, and in our republics, worse prepared than any other. The Gentleman in pursuance of his principle ought to carry the restraint to the *amendment*, as well as the originating of money bills, since, an addition of a given sum w^d. be equivalent to a distinct proposition of it.

M^r. King differed from M^r. Gerry, and concurred in the objections to the proposition.

M^r. Read favored the proposition, but would not extend the restraint to the case of amendments.

M^r. Pinkney thinks the question premature. If the Senate sh^d. be formed on the *same* proportional representation as it stands at present, they s^d have equal power, otherwise if a different principle s^d. be introduced.

M^r. Sherman. As both branches must concur, there can be no danger whichever way the Senate be formed. We establish two branches in order to get more wisdom, which is particularly needed in

the finance business— The Senate bear their share of the taxes, and are also the representatives of the people. What a man does by another, he does by himself is a maxim. In Con^t both branches can originate in all cases, and it has been found safe & convenient. Whatever might have been the reason of the rule as to The H. of Lords, it is clear that no good arises from it now even there.

Genl Pinkney. This distinction prevails in S. C. and has been a source of pernicious disputes between ye 2 branches. The Constitution is now evaded, by informal schedules of amendments handed from ye Senate to the other House.

Mr Williamson wishes for a question chiefly to prevent re-discussion. The restriction will have one advantage, it will oblige some member in the lower branch to move, & people can then mark him.

On the question for excepting money bills, as prop^d by Mr Gerry, Mass. no. Con^t no. N. Y. ay. N. J. no. Del. ay. M^d no. V^a ay. N. C. no. S. C. no. Geo. no.[1]

Committee rose & Mr Ghorum made report, which was postponed till tomorrow, to give an opportunity for other plans to be proposed. the report was in the words following:

Report of the Committee of Whole on Mr Randolph's propositions.

1. Res^d that it is the opinion of this Committee

[1] According to the Journal (121) Pennsylvania was among the noes.

that a National Governm^{t} ought to be established, consisting of a supreme Legislative, Executive & Judiciary.

2. Resol^{d} that the National Legislature ought to consist of two branches.

3. Res^{d} that the members of the first branch of the National Legislature ought to be elected by the people of the several States for the term of three years, to receive fixed Stipends by which they may be compensated for the devotion of their time to public service, to be paid out of the National Treasury: to be ineligible to any office established by a particular State, or under the authority of the U. States, (except those peculiarly belonging to the functions of the first branch), during the term of service, and under the national Government for the Space of one year after its expiration.

4. Res^{d} that the members of the second branch of the Nat^{l} Legislature ought to be chosen by the individual Legislatures, to be of the age of 30 years at least, to hold their offices for a term sufficient to ensure their independency, namely, seven years, to receive fixed stipends by which they may be compensated for the devotion of their time to public service to be paid out of the National Treasury; to be ineligible to any office established by a particular State, or under the authority of the U. States, (except those peculiarly belonging to the functions of the second branch) during the term of service, and under the Nat^{l} Gov^{t} for the space of one year after its expiration.

5. Res.d that each branch ought to possess the right of originating Acts

6. Res.d that the Nat.l Legislature ought to be empowered to enjoy the Legislative rights vested in Cong.s by the Confederation, and moreover to legislate in all cases to which the separate States are incompetent; or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening in the opinion of the National Legislature the articles of Union, or any treaties subsisting under the authority of the Union.

7. Res.d that the rights of suffrage in the 1.st branch of the National Legislature, ought not to be according to the rule established in the articles of confederation but according to some equitable ratio of representation, namely, in proportion to the whole number of white & other free citizens & inhabitants, of every age sex and condition, including those bound to servitude for a term of years, & three fifths of all other persons, not comprehended in the foregoing description, except Indians not paying taxes in each State.

8. Resolved that the right of suffrage in the 2.d branch of the National Legislature ought to be according to the rule established for the first.

9. Resolved that a National Executive be instituted to consist of a single person, to be chosen by the Nat.l Legislature for the term of seven years, with power to carry into execution the national laws,

to appoint to offices in cases not otherwise provided for—to be ineligible a second time, & to be removeable on impeachment and conviction of malpractices or neglect of duty—to receive a fixed stipend by which he may be compensated for the devotion of his time to public service to be paid out of the national Treasury.

10. Resol.d that the Nat.l Executive shall have a right to negative any Legislative Act, which shall not be afterwards passed unless by two thirds of each branch of the National Legislature.

11. Resol.d that a Nat.l Judiciary be established, to consist of one supreme tribunal, the Judges of which to be appointed by the 2.d branch of the Nat.l Legislature, to hold their offices during good behaviour, & to receive punctually at stated times a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

12. Resol.d that the Nat.l Legislature be empowered to appoint inferior Tribunals.

13. Res.d that the jurisdiction of the Nat.l Judiciary shall extend to all cases which respect the collection of the Nat.l revenue, impeachments of any Nat.l Officers, and questions which involve the national peace & harmony.

14. Res.d that provision ought to be made for the admission of States lawfully arising within the limits of the U. States, whether from a voluntary junction of Government & territory or otherwise, with the

consent of a number of voices in the Nat.l Legislature less than the whole.

15. Res.d that provision ought to be made for the continuance of Congress and their authorities and privileges untill a given day after the reform of the articles of Union shall be adopted and for the completion of all their engagements.

16. Res.d that a Republican Constitution & its existing laws ought to be guaranteed to each State by the U. States.

17. Res.d that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary.

18. Res.d that the Legislative, Executive & Judiciary powers within the several States ought to be bound by oath to support the articles of Union.

19. Res.d that the amendments which shall be offered to the confederation by the Convention ought at a proper time or times after the approbation of Cong.s to be submitted to an Assembly or Assemblies recommended by the several Legislatures to be expressly chosen by the people to consider and decide thereon.

THURSDAY JUNE 14. IN CONVENTION.

Mr. Patterson, observed to the Convention that it was the wish of several deputations, particularly that of N. Jersey, that further time might be allowed them to contemplate the plan reported from the Committee of the Whole, and to digest one purely

federal, and contradistinguished from the reported plan. He said they hoped to have such an one ready by tomorrow to be laid before the Convention: And the Convention adjourned that leisure might be given for the purpose.

FRIDAY JUNE 15TH 1787

Mr. Patterson, laid before the Convention the plan which he said several of the deputations wished to be substituted in place of that proposed by Mr. Randolph. After some little discussion of the most proper mode of giving it a fair deliberation it was agreed that it should be referred to a Committee of the Whole, and that in order to place the two plans in due comparison, the other should be recommitted. At the earnest request of Mr. Lansing [1] & some other gentlemen, it was also agreed that the Convention should not go into Comittee of the whole on the subject till tomorrow, by which delay the friends of the plan proposed by Mr. Patterson wd. be better prepared to explain & support it, and all would have an opportuy of taking copies.[2]

[1] "Mr. Lansing is a practising Attorney at Albany, and Mayor of that Corporation. He has a hisitation in his speech, that will prevent his being an Orator of any eminence;—his legal knowledge I am told is not extensive, nor his education a good one. He is however a Man of good sense, plain in his manners, and sincere in his friendships. He is about 32 years of age."—Pierce's Notes, *Am. Hist. Rev.*, iii., 327.

[2] (This plan had been concerted among the deputations or members thereof, from Cont. N. Y. N. J. Del. and perhaps Mr. Martin from Maryd who made with them a common cause though on different

The propositions from N. Jersey moved by Mr Patterson were in the words following.

1. Resd that the articles of Confederation ought to be so revised, corrected, & enlarged, as to render the federal Constitution adequate to the exigencies of Government, & the preservation of the Union.

2. Resd that in addition to the powers vested in the U. States in Congress, by the present existing articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty or

principles. Cont & N. Y. were agst a departure from the principle of the Confederation, wishing rather to add a few new powers to Congs than to substitute, a National Govt The States of N. J. & Del. were opposed to a National Govt because its patrons considered a proportional representation of the States as the basis of it. The eagerness displayed by the members opposed to a Natl Govt from these different motives began now to produce serious anxiety for the result of the Convention. Mr Dickenson said to Mr Madison You see the consequence of pushing things too far. Some of the members from the small States wish for two branches in the General Legislature, and are friends to a good National Government; but we would sooner submit to foreign power, than submit to be deprived of an equality of suffrage in both branches of the legislature, and thereby be thrown under the domination of the large States.)—Madison Note.

"Mr. Madison moved for the report of the committee, and the question may then come on whether the convention will postpone it in order to take into consideration the system now offered.

"Mr. Lansing is of opinion that the two systems are fairly contrasted. The one now offered is on the basis of amending the federal government, and the other to be reported as a national government, on propositions which exclude the propriety of amendment. Considering therefore its importance, and that justice may be done to its weighty consideration, he is for postponing it a day.

"Col. Hamilton cannot say he is in sentiment with either plan—supposes both might again be considered as federal plans, and by this means they will be fairly in committee, and be contrasted so as to make a comparative estimate of the two."—Yates, *Secret Proceedings*, etc., 121, 122.

duties on all goods or merchandizes of foreign growth or manufacture, imported into any part of the U. States, by Stamps on paper, vellum or parchment, and by a postage on all letters or packages passing through the general post-office, to be applied to such federal purposes as they shall deem proper & expedient; to make rules & regulations for the collection thereof; and the same from time to time, to alter & amend in such manner as they shall think proper, to pass Acts for the regulation of trade & commerce as well with foreign Nations as with each other: provided that all punishments, fines, forfeitures & penalties to be incurred for contravening such acts rules and regulations shall be adjudged by the Common law Judiciaries of the State in which any Offence contrary to the true intent & meaning of such Acts rules & regulations shall have been committed or perpetrated, with liberty of commencing in the first instance all suits & prosecutions for that purpose in the Superior Common law Judiciary in such State, subject nevertheless, for the correction of all errors, both in law & fact in rendering Judgment, to an appeal to the Judiciary of the U. States.

3. Res^d that whenever requisitions shall be necessary, instead of the rule for making requisitions mentioned in the articles of Confederation, the United States in Cong^s be authorized to make such requisitions in proportion to the whole number of white & other free citizens & inhabitants of every age Sex and condition including those bound to servitude for

a term of years & three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that if such requisitions be not complied with, in the time specified therein, to direct the collection thereof in the non complying States & for that purpose to devise and pass acts directing & authorizing the same; provided that none of the powers hereby vested in the U. States in Cong.s shall be exercised without the consent of at least ——— States, and in that proportion if the number of Confederated States should hereafter be increased or diminished.

4. Res.d that the U. States in Cong.s be authorized to elect a federal Executive to consist of ——— persons, to continue in office for the term of ——— years, to receive punctually at stated times a fixed compensation for their services, in which no increase nor diminution shall be made so as to affect the persons composing the Executive at the time of such increase or diminution, to be paid out of the federal treasury; to be incapable of holding any other office or appointment during their time of service and for ——— years thereafter: to be ineligible a second time, & removeable by Cong.s on application by a majority of the Executives of the several States; that the Executives besides their general authority to execute the federal acts ought to appoint all federal officers not otherwise provided for, & to direct all military operations; provided that none of the persons composing the federal Executive shall on any occasion take command of any troops,

so as personally to conduct any enterprise as General or in any other capacity.

5. Res^d^ that a federal Judiciary be established to consist of a supreme Tribunal the Judges of which to be appointed by the Executive, & to hold their offices during good behaviour, to receive punctually at stated times a fixed compensation for their services in which no increase nor diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution: that the Judiciary so established shall have authority to hear & determine in the first instance on all impeachments of federal Officers, & by way of appeal in the dernier resort in all cases touching the rights of Ambassadors, in all cases of captures from an enemy, in all cases of piracies & felonies on the high Seas, in all cases in which foreigners may be interested, in the construction of any treaty or treaties, or which may arise on any of the Acts for the regulation of trade, or the collection of the federal Revenue: that none of the Judiciary shall during the time they remain in office be capable of receiving or holding any other office or appointment during their term of service, or for ——— thereafter.

6. Res^d^ that all Acts of the U. States in Cong^s^ made by virtue & in pursuance of the powers hereby & by the Articles of Confederation vested in them, and all Treaties made & ratified under the authority of the U. States shall be the supreme law of the respective States so far forth as those Acts or Treaties shall relate to the said States or their Citizens, and

that the Judiciary of the several States shall be bound thereby in their decisions any thing in the respective laws of the Individual States to the Contrary notwithstanding: and that if any State, or any body of men in any State shall oppose or prevent ye carrying into execution such acts or treaties, the federal Executive shall be authorized to call forth ye power of the Confederated States, or so much thereof as may be necessary to enforce and compel an Obedience to such Acts, or an observance of such Treaties.

7. Res^d that provision be made for the admission of new States into the Union.

8. Res^d that the rule for naturalization ought to be same in every State.

9. Res^d that a Citizen of one State committing an offence in another State of the Union, shall be deemed guilty of the same offence as if it had been committed by a Citizen of the State in which the offence was committed.[1]

Adjourned.

[1] This copy of Mr Patterson's propositions varies in a few clauses from that in the printed Journal furnished from the papers of Mr Brearley a colleague of Mr Patterson. A confidence is felt, notwithstanding, in its accuracy. That the copy in the Journal is not entirely correct is shewn by the ensuing speech of Mr Wilson (June 16) in which he refers to the mode of removing the Executive by impeachment & conviction as a feature in the Virg^a plan forming one of its contrasts to that of Mr Patterson, which proposed a removal on the application of a majority of the Executives of the States. In the copy printed in the Journal, the two modes are combined in the same clause; whether through inadvertence, or as a contemplated amendment, does not appear.—Madison's Note.

The Journal contains: "6. Resolved, that the legislative, execu-

SATURDAY JUNE 16. IN COMMITTEE OF THE WHOLE on Resolutions propos^d^ by Mr P. & M^r^ R

Mr Lansing called for the reading of the 1st resolution of each plan, which he considered as involving principles directly in contrast; that of Mr Patterson says he sustains the sovereignty of the respective States, that of Mr Randolph destroys it: the latter requires a negative on all the laws of the particular States; the former, only certain general powers for the general good. The plan of Mr R. in short absorbs all power except what may be exercised in the little local matters of the States which are not objects worthy of the supreme cognizance. He grounded his preference of M^r^ P's plan, chiefly on two objections ag^st^ that of Mr R. 1. want of power in the Convention to discuss & propose it. 2 the improbability of its being adopted. 1. He was decidedly of opinion that the power of the Convention was restrained to amendments of a federal nature, and having for their basis the Confederacy in being. The Act of Congress The tenor of the Acts of the States, the Comissions produced by the several deputations all proved this. And this limitation of the power to an amendment of the Confederacy, marked the opinion of the States, that it was unnecessary & improper to go farther. He was sure that this was the case with his State. N. York

tive, and judiciary powers within the several states, ought to be bound, by oath, to support the articles of union," and "9. Resolved, that provision ought to be made for hearing and deciding upon all disputes arising between the United States and an individual state, respecting territory."—*Journal of the Federal Convention*, 126.

would never have concurred in sending deputies to the Convention, if she had supposed the deliberations were to turn on a consolidation of the States, and a National Government.

2. was it probable that the States would adopt & ratify a scheme, which they had never authorized us to propose? and which so far exceeded what they regarded as sufficient? We see by their several Acts particularly in relation to the plan of revenue proposed by Cong. in 1783, not authorized by the Articles of Confederation, what were the ideas they then entertained. Can so great a change be supposed to have already taken place. To rely on any change which is hereafter to take place in the sentiments of the people would be trusting to too great an uncertainty. We know only what their present sentiments are. And it is in vain to propose what will not accord with these. The States will never feel a sufficient confidence in a general Government to give it a negative on their laws. The Scheme is itself totally novel. There is no parallel to it to be found. The Authority of Congress is familiar to the people, and an augmentation of the powers of Congress will be readily approved by them.

Mr Patterson, said as he had on a former occasion given his sentiments on the plan proposed by Mr R. he would now avoiding repetition as much as possible give his reasons in favor of that proposed by himself. He preferred it because it accorded 1. with the powers of the Convention, 2 with the sentiments of the people. If the confederacy was radi-

cally wrong, let us return to our States, and obtain larger powers, not assume them ourselves. I came here not to speak my own sentiments, but the sentiments of those who sent me. Our object is not such a Governm^t as may be best in itself, but such a one as our Constituents have authorized us to prepare, and as they will approve. If we argue the matter on the supposition that no Confederacy at present exists, it can not be denied that all the States stand on the footing of equal sovereignty. All therefore must concur before any can be bound. If a proportional representation be right, why do we not vote so here? If we argue on the fact that a federal compact actually exists, and consult the articles of it we still find an equal Sovereignty to be the basis of it. He reads the 5th art: of Confederation giving each State a vote—& the 13th declaring that no alteration shall be made without unanimous consent. This is the nature of all treaties. What is unanimously done, must be unanimously undone. It was observed (by Mr Wilson) that the larger State gave up the point, not because it was right, but because the circumstances of the moment urged the concession. Be it so. Are they for that reason at liberty to take it back. Can the donor resume his gift without the consent of the donee. This doctrine may be convenient, but it is a doctrine that will sacrifice the lesser States. The larger States acceded readily to the confederacy. It was the small ones that came in reluctantly and slowly. N. Jersey & Maryland were the two last, the former

objecting to the want of power in Congress over trade: both of them to the want of power to appropriate the vacant territory to the benefit of the whole.—If the sovereignty of the States is to be maintained, the Representatives must be drawn immediately from the States, not from the people: and we have no power to vary the idea of equal sovereignty. The only expedient that will cure the difficulty, is that of throwing the States into Hotchpot. To say that this is impracticable, will not make it so. Let it be tried, and we shall see whether the Citizens of Mass^{ts} Pen^{a} & V^{a} accede to it. It will be objected that Coercion will be impracticable. But will it be more so in one plan than the other? Its efficacy will depend on the quantum of power collected, not on its being drawn from the States, or from the individuals; and according to his plan it may be exerted on individuals as well as according that of Mr R. A distinct executive & Judiciary also were equally provided by his plan. It is urged that two branches in the Legislature are necessary. Why? for the purpose of a check. But the reason of the precaution is not applicable to this case. Within a particular State, where party heats prevail, such a check may be necessary. In such a body as Congress it is less necessary, and besides, the delegations of the different States are checks on each other. Do the people at large complain of Cong^{s}? No, what they wish is that Cong^{s} may have more power. If the power now proposed be not eno', the people hereafter will make additions to it. With

proper powers Cong.s will act with more energy & wisdom than the proposed Nat.l Legislature; being fewer in number, and more secreted & refined by the mode of election. The plan of Mr. R. will also be enormously expensive. Allowing Georgia & Del. two representatives each in the popular branch the aggregate number of that branch will be 180. Add to it half as many for the other branch and you have 270, coming once at least a year from the most distant as well as the most central parts of the republic. In the present deranged State of our finances can so expensive a System be seriously thought of? By enlarging the powers of Cong.s the greatest part of this expence will be saved, and all purposes will be answered. At least a trial ought to be made.

Mr. Wilson entered into a contrast of the principal points of the two plans so far he said as there had been time to examine the one last proposed. These points were 1. in the Virg.a plan there are 2 & in some degree 3 branches in the Legislature: in the plan from N. J. there is to be a *single* legislature only—2. Representation of the people at large is the basis of one: the State Legislatures, the pillars of the other—3. proportional representation prevails in one;—equality of suffrage in the other—4. A single Executive Magistrate is at the head of the one:—a plurality is held out in the other.—5. in the one the majority of the people of the U. S. must prevail:—in the other a minority may prevail. 6. the Nat.l Legislature is to make laws in all cases to which the separate States are incompetent &:—in place of

this Cong^{s} are to have additional power in a few cases only—7. A negative on the laws of the States: —in place of this coertion to be substituted—8. The Executive to be removable on impeachment & conviction;—in one plan: in the other to be removable at the instance of a majority of the Executives of the States—9. Revision of the laws provided for in one:—no such check in the other—10. inferior national tribunals in one:—none such in the other. 11. In one ye jurisdiction of Nat^{l} tribunals to extend &c—; an appellate jurisdiction only allowed in the other. 12. Here the jurisdiction is to extend to all cases affecting the Nation^{l} peace & harmony; *there* a few cases only are marked out. 13. finally ye ratification is in this to be by the people themselves:—in that by the legislative authorities according to the 13 art: of the Confederation.

With regard to the *power of the Convention*, he conceived himself authorized to *conclude nothing*, but to be at liberty to *propose any thing*. In this particular he felt himself perfectly indifferent to the two plans.

With *regard to the sentiments of the people*, he conceived it difficult to know precisely what they are. Those of the particular circle in which one moved, were commonly mistaken for the general voice. He could not persuade himself that the State Gov^{ts} & Sovereignties were so much the idols of the people, nor a Nat^{l} Gov^{t} so obnoxious to them, as some supposed. Why s^{d} a Nat^{l} Gov^{t} be unpopular? Has it less dignity? will each Citizen enjoy under it less

liberty or protection? Will a Citizen of *Deleware* be degraded by becoming a Citizen of the *United States?* Where do the people look at present for relief from the evils of which they complain? Is it from an internal reform of their Gov^ts^? no, Sir. It is from the Nat^l^ Councils that relief is expected. For these reasons he did not fear, that the people would not follow us into a National Gov^t^ and it will be a further recommendation of M^r^ R^'s^ plan that it is to be submitted to *them*, and not to the *Legislatures*, for ratification.

Proceeding now to the 1st point on which he had contrasted the two plans, he observed that anxious as he was for some augmentation of the federal powers, it would be with extreme reluctance indeed that he could ever consent to give powers to Cong^s^ he had two reasons either of wch was sufficient, 1. Cong^s^ as a Legislative body does not stand on the people. 2. it is a *single* body. 1. He would not repeat the remarks he had formerly made on the principles of Representation, he would only say that an inequality in it, has ever been a poison contaminating every branch of Gov^t^ In G. Britain where this poison has had a full operation, the security of private rights is owing entirely to the purity of her tribunals of Justice, the Judges of which are neither appointed nor paid, by a venal Parliament. The political liberty of that Nation, owing to the inequality of representation is at the mercy of its rulers. He means not to insinuate that there is any parallel between the situation of that Country & ours at present. But

it is a lesson we ought not to disregard, that the smallest bodies in G. B. are notoriously the most corrupt. Every other source of influence must also be stronger in small that large bodies of men. When Lord Chesterfield had told us that one of the Dutch provinces had been seduced into the views of France, he need not have added, that it was not Holland, but one of the *smallest* of them. There are facts among ourselves which are known to all. Passing over others, he will only remark that the *Impost*, so anxiously wished for by the public was defeated not by any of the *larger* States in the Union. 2. *Congress is a single Legislature.* Despotism comes on Mankind in different Shapes, sometimes in an Executive, sometimes in a Military, one. Is there no danger of a Legislative despotism? Theory & practice both proclaim it. If the Legislative authority be not restrained, there can be neither liberty nor stability; and it can only be restrained by dividing it within itself, into distinct and independent branches. In a single House there is no check, but the inadequate one, of the virtue & good sense of those who compose it.

On another great point, the contrast was equally favorable to the plan reported by the Committee of the whole. It vested the Executive powers in a single Magistrate. The plan of N. Jersey, vested them in a plurality. In order to controul the Legislative authority, you must divide it. In order to controul the Executive you must unite it. One man will be more responsible than three. Three will con-

tend among themselves till one becomes the master of his colleagues. In the triumvirates of Rome first Cæsar, then Augustus, are witnesses of this truth. The Kings of Sparta, & the Consuls of Rome prove also the factious consequences of dividing the Executive Magistracy. Having already taken up so much time he w^d^ not he s^d^, proceed to any of the other points. Those on which he had dwelt, are sufficient of themselves; and on the decision of them, the fate of the others will depend.

Mr Pinkney,[1] the whole comes to this, as he conceived. Give N. Jersey an equal vote, and she will dismiss her scruples, and concur in the Nat^l^ system. He thought the Convention authorized to go any length in recommending, which they found necessary to remedy the evils which produced this Convention.

Mr Elseworth proposed as a more distinctive form of collecting the mind of the Committee on the subject, "that the Legislative power of the U. S. should remain in Cong^s^" This was not seconded, though it seemed better calculated for the purpose than the 1st proposition of Mr Patterson in place of which Mr. E. wished to substitute it.

Mr Randolph, was not scrupulous on the point of power. When the Salvation of the Republic was at stake, it would be treason to our trust, not to propose what we found necessary. He painted in strong colours, the imbecility of the existing Confederacy, & the danger of delaying a substantial

[1] Yates states it was C. C. Pinckney who said this.—*Secret Proceedings*, etc., 123.

reform. In answer to the objection drawn from the sense of our Constituents as denoted by their acts relating to the Convention and the objects of their deliberation, he observed that as each State acted separately in the case, it would have been indecent for it to have charged the existing Constitution with all the vices which it might have perceived in it. The first State that set on foot this experiment would not have been justified in going so far, ignorant as it was of the opinion of others, and sensible as it must have been of the uncertainty of a successful issue to the experiment. There are certainly reasons of a peculiar nature where the ordinary cautions must be dispensed with; and this is certainly one of them. He w^d^ not as far as depended on him leave any thing that seemed necessary, undone. The present moment is favorable, and is probably the last that will offer.

The true question is whether we shall adhere to the federal plan, or introduce the national plan. The insufficiency of the former has been fully displayed by the trial already made. There are but two modes, by which the end of a Genl Gov^t^ can be attained: the 1st is by coercion as proposed by M^r^ P's plan 2. by real legislation as prop^d^ by the other plan. Coercion he pronounced to be *impracticable, expensive, cruel to individuals.* It tended also to habituate the instruments of it to shed the blood & riot in the Spoils of their fellow Citizens, and consequently trained them up for the service of Ambition. We must resort therefore to a National *Legislation*

over individuals, for which Cong^{s} are unfit. To vest such power in them, would be blending the Legislative with the Executive, contrary to the rec^{d} maxim on this subject: If the Union of these powers heretofore in Cong^{s} has been safe, it has been owing to the general impotency of that body. Cong^{s} are moreover not elected by the people, but by the Legislatures who retain even a power of recall. They have therefore no will of their own, they are a mere diplomatic body, and are always obsequious to the views of the States, who are always encroaching on the authority of the U. States. A provision for harmony among the States, as in trade, naturalization &.—for crushing rebellion whenever it may rear its crest—and for certain other general benefits, must be made. The powers for these purposes can never be given to a body, inadequate as Congress are in point of representation, elected in the mode in which they are, and possessing no more confidence than they do: for notwithstanding what has been said to the contrary, his own experience satisfied him that a rooted distrust of Congress pretty generally prevailed. A Nat^{l} Gov^{t} alone, properly constituted, will answer the purpose; and he begged it to be considered that the present is the last moment for establing one. After this select experiment, the people will yield to despair.

The Committee rose & the House adjourned.

MONDAY JUNE 18. IN COMMITTEE OF THE WHOLE on the propositions of Mr Patterson & Mr Randolph

On motion of Mr. Dickinson to postpone the 1st Resolution in Mr. Patterson's plan, in order to take up the following viz—"that the Articles of Confederation ought to be revised and amended, so as to render the Government of the U. S. adequate to the exigencies, the preservation and the prosperity of the Union" the postponement was agreed to by 10 States, Pen: divided.

Mr. Hamilton,[1] had been hitherto silent on the business before the Convention, partly from respect to others whose superior abilities age & experience rendered him unwilling to bring forward ideas dissimilar to theirs, and partly from his delicate situation with respect to his own State, to whose sentiments as expressed by his Colleages, he could by no means accede. This crisis however which now marked our affairs, was too serious to permit any scruples whatever to prevail over the duty imposed on every man to contribute his efforts for the public safety & happiness. He was obliged therefore to declare himself unfriendly to both plans. He was particularly opposed to that from N. Jersey, being fully convinced, that no amendment of the Confederation, leaving the States in possession of their Sovereignty could possibly answer the purpose. On the other hand he confessed he was much discour-

[1] Hamilton happened to call upon Madison while the latter was putting the last touches to this speech and "acknowledged its fidelity, without suggesting more than a few verbal alterations which were made."—*Ante*, vol. ii. A brief of the speech from the Hamilton Papers is given in Lodge's *Works of Hamilton*, i., 353, where (i., 375) Yates's report also is quoted.

aged by the amazing extent of Country in expecting the desired blessings from any general sovereignty that could be substituted.—As to the powers of the Convention, he thought the doubts started on that subject had arisen from distinctions & reasonings too subtle. A *federal* Gov^t he conceived to mean an association of independent Communities into one. Different Confederacies have different powers, and exercise them in different ways. In some instances the powers are exercised over collective bodies; in others over individuals, as in the German Diet—& among ourselves in cases of piracy. Great latitude therefore must be given to the signification of the term. The plan last proposed departs itself from the *federal* idea, as understood by some, since it is to operate eventually on individuals. He agreed moreover with the Honble gentleman from V^a (Mr R.) that we owed it to our Country, to do on this emergency whatever we should deem essential to its happiness. The States sent us here to provide for the exigencies of the Union. To rely on & propose any plan not adequate to these exigencies, merely because it was not clearly within our powers, would be to sacrifice the means to the end. It may be said that the *States* cannot *ratify* a plan not within the purview of the article of the Confederation providing for alterations & amendments. But may not the States themselves in which no constitutional authority equal to this purpose exists in the Legislatures, have had in view a reference to the people at large. In the Senate of N. York, a proviso was

moved, that no act of the Convention should be binding untill it should be referred to the people & ratified; and the motion was lost by a single voice only, the reason assigned agst it being, that it might possibly be found an inconvenient shackle.

The great question is what provision shall we make for the happiness of our Country? He would first make a comparative examination of the two plans—prove that there were essential defects in both—and point out such changes as might render a *national one*, efficacious.—The great & essential principles necessary for the support of Government are 1. an active & constant interest in supporting it. This principle does not exist in the States in favor of the federal Gov^{t} They have evidently in a high degree, the esprit de corps. They constantly pursue internal interests adverse to those of the whole. They have their particular debts—their particular plans of finance &c. All these when opposed to, invariably prevail over the requisitions & plans of Congress. 2. The love of power. Men love power. The same remarks are applicable to this principle. The States have constantly shewn a disposition rather to regain the powers delegated by them than to part with more, or to give effect to what they had parted with. The ambition of their demagogues is known to hate the controul of the Genl Government. It may be remarked too that the Citizens have not that anxiety to prevent a dissolution of the Genl Gov^{t} as of the particular Gov^{ts} A dissolution of the latter would be fatal; of the former would still leave

HAMILTON'S PRINCIPAL SPEECH.

(Reduced.)

the purposes of Gov^{t} attainable to a considerable degree. Consider what such a State as Virg^{a} will be in a few years, a few compared with the life of nations. How strongly will it feel its importance and self-sufficiency? 3. An habitual attachment of the people. The whole force of this tie is on the side of the State Gov^{t} Its sovereignty is immediately before the eyes of the people: its protection is immediately enjoyed by them. From its hand distributive justice, and all those acts which familiarize & endear a Gov^{t} to a people, are dispensed to them. 4. *Force* by which may be understood a *coercion of laws* or *coercion of arms*. Cong^{s} have not the former except in few cases. In particular States, this Coercion is nearly sufficient; tho' he held it in most cases, not entirely so. A certain portion of military force is absolutely necessary in large communities. Mass^{ts} is now feeling this necessity & making provision for it. But how can this force be exerted on the States collectively. It is impossible. It amounts to a war between the parties. Foreign powers also will not be idle spectators. They will interpose, the confusion will increase, and a dissolution of the Union will ensue. 5. *Influence*. he did not mean corruption, but a dispensation of those regular honors & emoluments, which produce an attachment to the Gov^{t} Almost all the weight of these is on the side of the States; and must continue so as long as the States continue to exist. All the passions then we see, of avarice, ambition, interest, which govern most individuals, and all public bodies, fall into the

current of the States, and do not flow into the stream of the Genl Gov^{t} The former therefore will generally be an overmatch for the Genl Gov^{t} and render any confederacy, in its very nature precarious. Theory is in this case fully confirmed by experience. The Amphyctionic Council had it would seem ample powers for general purposes. It had in particular the power of fining and using force agst delinquent members. What was the consequence. Their decrees were mere signals of war. The Phocian war is a striking example of it. Philip at length taking advantage of their disunion, and insinuating himself into their councils, made himself master of their fortunes. The German Confederacy affords another lesson. The Authority of Charlemagne seemed to be as great as could be necessary. The great feudal chiefs however, exercising their local sovereignties, soon felt the spirit & found the means of, encroachments, which reduced the imperial authority to a nominal sovereignty. The Diet has succeeded, which tho' aided by a Prince at its head, of great authority independently of his imperial attributes, is a striking illustration of the weakness of Confederated Governments. Other examples instruct us in the same truth. The Swiss cantons have scarce any union at all, and have been more than once at war with one another.—How then are all these evils to be avoided? only by such a compleat sovereignty in the General Goverm^{t} as will turn all the strong principles & passions abovementioned on its side. Does the scheme of N. Jersey produce this effect? does

it afford any substantial remedy whatever? On the contrary it labors under great defects, and the defect of some of its provisions will destroy the efficacy of others. It gives a direct revenue to Cong.s but this will not be sufficient. The balance can only be supplied by requisitions: which experience proves cannot be relied on. If States are to deliberate on the mode, they will also deliberate on the object of the supplies, and will grant or not grant as they approve or disapprove of it. The delinquency of one will invite and countenance it in others. Quotas too must in the nature of things be so unequal as to produce the same evil. To what standard will you resort? Land is a fallacious one. Compare Holland with Russia; France or Eng.d with other countries of Europe, Pen.a with N. Carol.a will the relative pecuniary abilities in those instances, correspond with the relative value of land. Take numbers of inhabitants for the rule and make like comparison of different countries, and you will find it to be equally unjust. The different degrees of industry and improvement in different Countries render the first object a precarious measure of wealth. Much depends too on *situation*. Con.t N. Jersey & N. Carolina, not being commercial States & contributing to the wealth of the Commercial ones, can never bear quotas assessed by the ordinary rules of proportion. They will & must fail in their duty, their example will be followed, and the union itself be dissolved. Whence then is the national revenue to be drawn? from Commerce; even from exports which

notwithstanding the comon opinion are fit objects of moderate taxation, from excise, &c &c. These tho' not equal, are less unequal than quotas. Another destructive ingredient in the plan, is that equality of suffrage which is so much desired by the small States. It is not in human nature that V^a & the large States should consent to it, or if they did that they sh^d long abide by it. It shocks too much all ideas of Justice, and every human feeling. Bad principles in a Gov^t tho slow are sure in their operation, and will gradually destroy it. A doubt has been raised whether Cong^s at present have a right to keep Ships or troops in time of peace. He leans to the negative. Mr. P's plan provides no remedy. —If the powers proposed were adequate, the organization of Cong^s is such that they could never be properly & effectually exercised. The members of Cong^s being chosen by the States & subject to recall, represent all the local prejudices. Should the powers be found effectual, they will from time to time be heaped on them, till a tyrannic sway shall be established. The general power whatever be its form if it preserves itself, must swallow up the State powers. Otherwise it will be swallowed up by them. It is ag^st all the principles of a good Government to vest the requisite powers in such a body as Cong^s Two Sovereignties can not co-exist within the same limits. Giving powers to Cong^s must eventuate in a bad Gov^t or in no Gov^t The plan of N. Jersey therefore will not do. What then is to be done? Here he was embarrassed. The extent of the Country to

be governed, discouraged him. The expence of a general Gov^t was also formidable; unless there were such a diminution of expence on the side of the State Gov^ts as the case would admit. If they were extinguished, he was persuaded that great œconomy might be obtained by substituting a general Gov^t He did not mean however to shock the public opinion by proposing such a measure. On the other hand he saw no *other* necessity for declining it. They are not necessary for any of the great purposes of commerce, revenue, or agriculture. Subordinate authorities he was aware would be necessary. There must be district tribunals; corporations for local purposes. But cui bono, the vast & expensive apparatus now appertaining to the States. The only difficulty of a serious nature which occurred to him, was that of drawing representatives from the extremes to the centre of the Community. What inducements can be offered that will suffice? The moderate wages for the 1st branch would only be a bait to little demagogues. Three dollars or thereabouts he supposed would be the utmost. The Senate he feared from a similar cause, would be filled by certain undertakers who wish for particular offices under the Gov^t This view of the subject almost led him to despair that a Republican Gov^t could be established over so great an extent. He was sensible at the same time that it would be unwise to propose one of any other form. In his private opinion he had no scruple in declaring, supported as he was by the opinion of so many of the wise & good,

that the British Gov^{t} was the best in the world: and that he doubted much whether any thing short of it would do in America. He hoped Gentlemen of different opinions would bear with him in this, and begged them to recollect the change of opinion on this subject which had taken place and was still going on. It was once thought that the power of Cong^{s} was amply sufficient to secure the end of their institution. The error was now seen by every one. The members most tenacious of republicanism, he observed, were as loud as any in declaiming agst the vices of democracy. This progress of the public mind led him to anticipate the time, when others as well as himself would join in the praise bestowed by Mr Neckar on the British Constitution, namely, that it is the only Gov^{t} in the world "which unites public strength with individual security."—In every Com̃unity where industry is encouraged, there will be a division of it into the few & the many. Hence separate interests will arise. There will be debtors & Creditors &c. Give all power to the many, they will oppress the few. Give all power to the few, they will oppress the many. Both therefore ought to have the power, that each may defend itself agst the other. To the want of this check we owe our paper money, instalment laws &c To the proper adjustment of it the British owe the excellence of their Constitution. Their house of Lords is a most noble institution. Having nothing to hope for by a change, and a sufficient interest by means of their property, in being faithful to the national interest,

they form a permanent barrier ag^st^ every pernicious innovation, whether attempted on the part of the Crown or of the Commons. No temporary Senate will have firmness eno' to answer the purpose. The Senate (of Maryland) which seems to be so much appealed to, has not yet been sufficiently tried. Had the people been unamimous & eager in the late appeal to them on the subject of a paper emission they would have yielded to the torrent. Their acquiescing in such an appeal is a proof of it.—Gentlemen differ in their opinions concerning the necessary checks, from the different estimates they form of the human passions. They suppose seven years a sufficient period to give the senate an adequate firmness, from not duly considering the amazing violence & turbulence of the democratic spirit. When a great object of Gov^t^ is pursued, which seizes the popular passions, they spread like wild fire, and become irresistable. He appealed to the gentlemen from the N. England States whether experience had not there verified the remark.—As to the Executive, it seemed to be admitted that no good one could be established on Republican Principles. Was not this giving up the merits of the question; for can there be a good Gov^t^ without a good Executive. The English Model was the only good one on this subject. The Hereditary interest of the King was so interwoven with that of the Nation, and his personal emoluments so great, that he was placed above the danger of being corrupted from abroad—and at the same time was both sufficiently independent and sufficiently

controuled, to answer the purpose of the institution at home. one of the weak sides of Republics was their being liable to foreign influence & corruption. Men of little character, acquiring great power become easily the tools of intermeddling Neibours. Sweden was a striking instance. The French & English had each their parties during the late Revolution which was effected by the predominant influence of the former.—What is the inference from all these observations? That we ought to go as far in order to attain stability and permanency, as republican principles will admit. Let one branch of the Legislature hold their places for life or at least during good behaviour. Let the Executive also be for life. He appealed to the feelings of the members present whether a term of seven years, would induce the sacrifices of private affairs which an acceptance of public trust would require, so as to ensure the services of the best Citizens. On this plan we should have in the Senate a permanent will, a weighty interest, which would answer essential purposes. But is this a Republican Gov^{t}, it will be asked? Yes if all the Magistrates are appointed, and vacancies are filled, by the people, or a process of election originating with the people. He was sensible that an Executive constituted as he proposed would have in fact but little of the power and independence that might be necessary. On the other plan of appointing him for 7 years, he thought the Executive ought to have but little power. He would be ambitious, with the means of making creatures, and as the

object of his ambition w^d^ be to *prolong* his power, it is probable that in case of a war, he would avail himself of the emergence, to evade or refuse a degradation from his place. An Executive for life has not this motive for forgetting his fidelity, and will therefore be a safer depository of power. It will be objected probably, that such an Executive will be an *elective Monarch*, and will give birth to the tumults which characterize that form of Gov^t^ He w^d^ reply that *Monarch* is an indefinite term. It marks not either the degree or duration of power. If this Executive Magistrate w^d^ be a monarch for life—the other prop^d^ by the Report from the Com̃ittee of the whole, w^d^ be a monarch for seven years. The circumstance of being elective was also applicable to both. It had been observed by judicious writers that elective monarchies w^d^ be the best if they could be guarded ag^st^ the *tumults* excited by the ambition and intrigues of competitors. He was not sure that tumults were an inseparable evil. He rather thought this character of Elective Monarchies had been taken rather from particular cases than from general principles. The election of Roman Emperors was made by the *Army*. In *Poland* the election is made by great rival *princes* within dependent power, and ample means, of raising commotions. In the German Empire, The appointment is made by the Electors & Princes, who have equal motives & means, for exciting cabals & parties. Might not such a mode of election be devised among ourselves as will defend the community ag^st^ these effects in any dangerous

degree? Having made these observations he would read to the Committee a sketch of a plan which he sh^d prefer to either of those under consideration. He was aware that it went beyond the ideas of most members. But will such a plan be adopted out of doors? In return he would ask will the people adopt the other plan? At present they will adopt neither. But he sees the Union dissolving or already dissolved —he sees evils operating in the States which must soon cure the people of their fondness for democracies—he sees that a great progress has been already made & is still going on in the public mind. He thinks therefore that the people will in time be unshackled from their prejudices; and whenever that happens, they will themselves not be satisfied at stopping where the plan of Mr R. w^d place them, but be ready to go as far at least as he proposes. He did not mean to offer the paper he had sketched as a proposition to the Committee. It was meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose to the plan of Mr R. in the proper stages of its future discussion. He read his sketch in the words following; to wit

I. "The supreme Legislative power of the United States of America to be vested in two different bodies of men; the one to be called the Assembly, the other the Senate who together shall form the Legislature of the United States with power to pass all laws whatsoever subject to the Negative hereafter mentioned.

II. The Assembly to consist of persons elected by the people to serve for three years.

III. The Senate to consist of persons elected to serve during good behaviour; their election to be made by electors chosen for that purpose by the people: in order to this the States to be divided into election districts. On the death, removal or resignation of any Senator his place to be filled out of the district from which he came.

IV. The supreme Executive authority of the United States to be vested in a Governour to be elected to serve during good behaviour—the election to be made by Electors chosen by the people in the Election Districts aforesaid—The authorities & functions of the Executive to be as follows: to have a negative on all laws about to be passed, and the execution of all laws passed; to have the direction of war when authorized or begun; to have with the advice and approbation of the Senate the power of making all treaties; to have the sole appointment of the heads or chief officers of the departments of Finance, War and Foreign Affairs; to have the nomination of all other officers (Ambassadors to foreign Nations included) subject to the approbation or rejection of the Senate; to have the power of pardoning all offences except Treason; which he shall not pardon without the approbation of the Senate.

V. On the death resignation or removal of the Governour his authorities to be exercised by the President of the Senate till a Successor be appointed.

VI. The Senate to have the sole power of

declaring war, the power of advising and approving all Treaties, the power of approving or rejecting all appointments of officers except the heads or chiefs of the departments of Finance War and foreign affairs.

VII. The supreme Judicial authority to be vested in —— Judges to hold their offices during good behaviour with adequate and permanent salaries. This Court to have original jurisdiction in all causes of capture, and an appellative jurisdiction in all causes in which the revenues of the General Government or the Citizens of foreign Nations are concerned.

VIII. The Legislature of the United States to have power to institute Courts in each State for the determination of all matters of general concern.

IX. The Governour Senators and all officers of the United States to be liable to impeachment for mal- and corrupt conduct; and upon conviction to be removed from office, & disqualified for holding any place of trust or profit—All impeachments to be tried by a Court to consist of the Chief ——— or Judge of the Superior Court of Law of each State, provided such Judge shall hold his place during good behavior, and have a permanent salary.

X. All laws of the particular States contrary to the Constitution or laws of the United States to be utterly void; and the better to prevent such laws being passed, the Governour or president of each State shall be appointed by the General Government and shall have a Negative upon the laws about to be passed in the State of which he is the Governour or President.

XI. No State to have any forces land or Naval; and the militia of all the States to be under the sole and exclusive direction of the United States, the officers of which to be appointed and commissioned by them.

On these several articles he entered into explanatory observations corresponding with the principles of his introductory reasoning.[1]

Comittee rose & the House Adjourned.

[1] COPY OF A PAPER COMMUNICATED TO J. M. BY COL. HAMILTON, ABOUT THE CLOSE OF THE CONVENTION IN PHILAD^A, 1787, WHICH HE SAID DELINEATED THE CONSTITUTION WHICH HE WOULD HAVE WISHED TO BE PROPOSED BY THE CONVENTION. HE HAD STATED THE PRINCIPLES OF IT IN THE COURSE OF THE DELIBERATIONS.

The people of the United States of America do ordain & establish this Constitution for the government of themselves and their posterity.

ARTICLE I

§ 1. The Legislative power shall be vested in two distinct bodies of men, one to be called the Assembly, the other the Senate, subject to the negative hereinafter mentioned.

§ 2. The Executive power, with the qualifications hereinafter specified, shall be vested in a President of the United States.

§ 3. The Supreme Judicial authority, except in the cases otherwise provided for in this Constitution, shall be vested in a Court to be called the SUPREME COURT, to consist of not less than six nor more than twelve Judges.

ARTICLE II

§ 1. The Assembly shall consist of persons to be called representatives, who shall be chosen, except in the first instance, by the free male citizens & inhabitants of the several States comprehended in the Union, all of whom of the age of twenty one years & upwards shall be entitled to an equal vote.

§ 2. But the first Assembly shall be chosen in the manner prescribed in the last article and shall consist of one hundred members of whom N. Hampshire shall have five, Massachusetts thirteen, Rhode Island two, Connecticut seven, N. York nine, N. Jersey six, Pennsylvania twelve, Delaware two, Maryland eight, Virginia sixteen, N. Carolina eight, S. Carolina eight, Georgia four.

§ 3. The Legislature shall provide for the future elections of Representatives, apportioning them in each State, from time to time, as

TUESDAY JUNE 19TH IN COMMITTEE OF WHOLE ON THE PROPOSITIONS OF MR. PATTERSON,—[1]

The substitute offered yesterday by Mr. Dicken-

nearly as may be to the number of persons described in the 4§ of the VII article, so as that the whole number of Representatives shall never be less than one hundred, nor more than —— hundred. There shall be a Census taken for this purpose within three years after the first meeting of the Legislature, and within every successive period of ten years. The term for which Representatives shall be elected shall be determined by the Legislature but shall not exceed three years. There shall be a general election at least once in three years; and the time of service of all the members in each Assembly shall begin, (except in filling vacancies) on the same day, and shall always end on the same day.

§ 4. Forty members shall make a House sufficient to proceed to business; but their number may be increased by the Legislature, yet so as never to exceed a majority of the whole number of Representatives.

§ 5. The Assembly shall choose its President and other officers, shall judge of the qualifications & elections of its own members, punish them for improper conduct in their capacity of Representatives not extending to life or limb; and shall exclusively possess the power of impeachment except in the case of the President of the United States; but no impeachment of a member of the Senate shall be by less than two thirds of the Representatives present.

§ 6. Representatives may vote by proxy; but no Representative present shall be proxy for more than one who is absent.*

§ 7. Bills for raising revenue, and bills for appropriating monies for the support of fleets and armies, and for paying the salaries of the officers of Government, shall originate in the Assembly; but may be altered and amended by the Senate.

§ 8. The acceptance of an office under the United States by a Representative shall vacate his seat in the Assembly.

ARTICLE III

§ 1. The Senate shall consist of persons to be chosen, except in the first instance, by Electors elected for that purpose by the Citizens and

* Quere, ? (to provide for distant States).—Note in Madison's hand.

[1] This was the last session of the Convention in Committee of the Whole.

son being rejected by a vote now taken on it; Con. N. Y. N. J. Del. ay. Mass. Pa. V. N. C. S. C. Geo. no

inhabitants of the several States comprehended in the Union who shall have in their own right, or in the right of their wifes, an Estate in land for not less than life, or a term of years, whereof at the time of giving their votes there shall be at least fourteen years unexpired.

§ 2. But the first Senate shall be chosen in the manner prescribed in the last Article and shall consist of forty members to be called Senators, of whom N. Hampshire shall have —— Masts. —— R. Island —— Connecticut —— N. York —— N. Jersey —— Pena. —— Delaware —— Maryd. —— Virga. —— N. Carola. —— S. Carol. —— Geo. ——.

§ 3. The Legislature shall provide for the future elections of Senators, for which purpose the States respectively, which have more than one Senator, shall be divided into convenient districts to which the Senators shall be apportioned. A State having but one Senator shall be itself a district. On the death, resignation or removal from office of a Senator his place shall be supplied by a new election in the district from which he came. Upon each election there shall be not less than six nor more than twelve electors chosen in a district.

§ 4. The number of Senators shall never be less than forty, nor shall any State, if the same shall not hereafter be divided, ever have less than the number allotted to it in the second section of this article; but the Legislature may increase the whole number of Senators, in the same proportion to the whole number of Representatives as forty is to one hundred; and such increase beyond the present number, shall be apportioned to the respective States in a ratio to the respective numbers of their representatives.

§ 5. If States shall be divided, or if a new arrangement of the boundaries of two or more States shall take place, the Legislature shall apportion the number of Senators (in elections succeeding such division or new arrangement) to which the constituent parts were entitled according to the change of situation, having regard to the number of persons described in the 4 §. of the VII article.

§ 6. The Senators shall hold their places during good behaviour, removable only by conviction on impeachment for some crime or misdemeanor. They shall continue to exercise their offices when impeached untill a conviction shall take place. Sixteen Senators attending in person shall be sufficient to make a House to transact business; but the Legislature may increase this number, yet so as never to exceed a majority of the whole number of Senators. The Senators may

Mary^d divided Mr Patterson's plan was again at large before the Committee

Mr Madison. Much stress has been laid by some

vote by proxy, but no Senator who is present shall be proxy for more than two who are absent.

§ 7. The Senate shall choose its President and other officers; shall judge of the qualifications and elections of its members, and shall punish them for improper conduct in their capacity of Senators; but such punishment shall not extend to life or limb, nor to expulsion. In the absence of their President they may choose a temporary President. The President shall only have a casting vote when the House is equally divided.

§ 8. The Senate shall exclusively possess the power of declaring war. No treaty shall be made without their advice and consent; which shall also be necessary to the appointment of all officers, except such for which a different provision is made in this Constitution.

ARTICLE IV

§ 1. The President of the United States of America, (except in the first instance) shall be elected in the manner following—The Judges of the Supreme Court shall within sixty days after a vacancy shall happen, cause public notice to be given in each State, of such vacancy, appointing therein three several days for the several purposes following, to wit, a day for commencing the election of electors for the purposes hereinafter specified, to be called the first electors, which day shall not be less than forty, nor more than sixty days, after the day of the publication of the notice in each State—another day for the meeting of the electors not less [than] forty nor more than ninety days from the day for commencing their election—another day for the meeting of electors to be chosen by the first electors, for the purpose hereinafter specified, and to be called the second Electors, which day shall be not less than forty nor more than sixty days after the day for the meeting of the first electors.

§ 2. After notice of a vacancy shall have been given there shall be chosen in each State a number of persons, as the first electors in the preceding section mentioned, equal to the whole number of the Representatives and Senators of such State in the Legislature of the United States; which electors shall be chosen by the Citizens of such State having an estate of inheritance or for three lives in land, or a clear

gentlemen on the want of power in the Convention to propose any other than a *federal* plan. To what had been answered by others, he would only add,

personal estate of the value of one thousand Spanish milled dollars of the present standard.

§ 3. These first electors shall meet in their respective States at the time appointed, at one place; and shall proceed to vote by ballot for a President, who shall not be one of their own number, unless the Legislature upon experiment should hereafter direct otherwise. They shall cause two lists to be made of the name or names of the person or persons voted for, which they or the major part of them shall sign & certify. They shall then proceed each to nominate openly in the presence of the others, two persons as for second electors, and out of the persons who shall have the four highest numbers of nominations, they shall afterwards by ballot by plurality of votes choose two who shall be the second electors, to each of whom shall be delivered one of the lists before mentioned. These second electors shall not be any of the persons voted for as President. A copy of the same list signed and certified in like manner shall be transmitted by the first electors to the Seat of the Government of the United States, under a sealed cover directed to the President of the Assembly, which after the meeting of the Second electors shall be opened for the inspection of the two Houses of the Legislature.

§ 4. The second electors shall meet precisely on the day appointed and not on another day, at one place. The Chief Justice of the Supreme Court, or if there be no Chief Justice, the Judge senior in office in such Court, or if there be no one Judge senior in office, some other Judge of that Court, by the choice of the rest of the Judges or of a majority of them, shall attend at the same place and shall preside at the meeting, but shall have no vote. Two thirds of the whole number of the Electors shall constitute a sufficient meeting for the execution of their trust. At this meeting the lists delivered to the respective electors shall be produced and inspected, and if there be any person who has a majority of the whole number of votes given by the first electors, he shall be the President of the United States; but if there be no such person, the second electors so met shall proceed to vote, by ballot for one of the persons named in the lists who shall have the three highest numbers of the votes of the first electors; and if upon the first or any succeeding ballot on the day of their meeting, either of those persons shall have a number of votes equal to a majority of the whole number of second electors chosen, he shall be the President. But if

that neither of the characteristics attached to a *federal* plan would support this objection. One characteristic, was that in a *federal* Government, the

no such choice be made on the day appointed for the meeting either by reason of the non-attendance of the second electors, or their not agreeing, or any other matter, the person having the greatest number of votes of the first electors shall be the President.

§ 5. If it should happen that the Chief Justice or some other Judge of the Supreme Court should not attend in due time, the second electors shall proceed to the execution of their trust without him.

§ 6. If the Judges should neglect to cause the notice required by the first section of this article to be given within the time therein limited, they may nevertheless cause it to be afterwards given; but their neglect if wilful, is hereby declared to be an offence for which they may be impeached, and if convicted they shall be punished as in other cases of conviction on impeachment.

§ 7. The Legislature shall by permanent laws provide such further regulations as may be necessary for the more orderly election of the President; not contravening the provisions herein contained.

§ 8. The President before he shall enter upon the execution of his office shall take an oath or affirmation, faithfully to execute the same, and to the utmost of his Judgment & power to protect the rights of the people, and preserve the Constitution inviolate. This oath or affirmation shall be administered by the President of the Senate for the time being in the presence of both Houses of the Legislature.

§ 9. The Senate and the Assembly shall always convene in Session on the day appointed for the meeting of the second electors and shall continue sitting till the President take the oath or affirmation of office. He shall hold his place during good behavior, removeable only by conviction upon impeachment for some crime or misdemeanor.

§ 10. The President at the beginning of every meeting of the Legislature as soon as they shall be ready to proceed to business, shall convene them together at the place where the Senate shall sit, and shall communicate to them all such matters as may be necessary for their information, or as may require their consideration. He may by message during the Session communicate all other matters which may appear to him proper. He may, whenever in his opinion the public business shall require it, convene the Senate and Assembly, or either of them, and may prorogue them for a time not exceeding forty days at one prorogation; and if they should disagree about their adjournment, he may adjourn them to such time as he shall think

power was exercised not on the people individually; but on the people *collectively*, on the *States*. Yet in some instances as in piracies, captures &c. the

proper. He shall have a right to negative all bills, Resolutions or acts of the two Houses of the Legislature about to be passed into laws. He shall take care that the laws be faithfully executed. He shall be the commander in chief of the army and Navy of the United States and of the Militia within the several States, and shall have the direction of war when commenced, but he shall not take the actual command in the field of an army without the consent of the Senate and Assembly. All treaties, conventions and agreements with foreign nations shall be made by him, by and with the advice and consent of the Senate. He shall have the appointment of the Principal or Chief officer of each of the departments of war, naval Affairs, Finance and Foreign Affairs; and shall have the nomination; and by and with the consent of the Senate, the appointment of all other officers to be appointed under the authority of the United States, except such for whom different provision is made by this Constitution; and provided that this shall not be construed to prevent the Legislature, from appointing by name, in their laws, persons to special and particular trusts created in such laws; nor shall be construed to prevent principals in offices merely ministerial, from constituting deputies.—In the recess of the Senate he may fill vacancies in offices by appointments to continue in force until the end of the next Session of the Senate, and he shall commission all officers. He shall have power to pardon all offences except treason, for which he may grant reprieves, untill the opinion of the Senate & Assembly can be had, and with their concurrence may pardon the same.

§ 11. He shall receive a fixed conpensation for his services to be paid to him at stated times, and not to be increased nor diminished during his continuance in office.

§ 12. If he depart out of the United States without the Consent of the Senate and Assembly, he shall thereby abdicate his office.

§ 13. He may be impeached for any crime or misdemesnor by the two Houses of the Legislature, two thirds of each House concurring, and if convicted shall be removed from office. He may be afterwards tried & punished in the ordinary course of law. His impeachment shall operate as a suspension from office until the determination thereof.

§ 14. The President of the Senate shall be vice President of the United States. On the death, resignation, impeachment, removal

existing Confederacy, and in many instances the amendments to it proposed by Mr. Patterson, must operate immediately on individuals. The other

from office, or absence from the United States, of the President thereof, the Vice President shall exercise all the powers by this Constitution vested in the President, until another shall be appointed, or untill he shall return within the United States, if his absence was with the consent of the Senate and Assembly.

ARTICLE V

§ 1. There shall be a Chief Justice of the Supreme Court, who together with the other Judges thereof, shall hold the office during good behaviour, removable only by conviction on impeachment for some crime or misdemeanor. Each Judge shall have a competent salary to be paid to him at stated times, and not to be diminished during his continuance in office.

The Supreme Court shall have original jurisdiction in all causes in which the United States shall be a party, in all controversies between the United States, and a particular State, or between two or more States, except such as relate to a claim of territory between the United States, and one or more States, which shall be determined in the mode prescribed in the VI article ; in all cases affecting foreign Ministers, Consuls and Agents; and an appellate jurisdiction both as to law and fact in all cases which shall concern the Citizens of foreign nations, in all questions between the Citizens of different States, and in all others in which the fundamental rights of this Constitution are involved, subject to such exceptions as are herein contained and to such regulations as the Legislature shall provide.

The Judges of all Courts which may be constituted by the Legislature shall also hold their places during good behaviour, removeable only by conviction on impeachment for some crime or misdemeanor, and shall have competent salaries to be paid at stated times and not to be diminished during their continuance in office; but nothing herein contained shall be construed to prevent the Legislature from abolishing such Courts themselves.

All crimes, except upon impeachment, shall be tried by a Jury of twelve men; and if they shall have been committed within any State, shall be tried within such State; and all civil causes arising under this constitution of the like kind with those which have been heretofore triable by Jury in the respective States, shall in like manner be tried by jury; unless in special cases the Legislature shall think proper to

characteristic was, that a *federal* Gov^{t} derived its appointments not immediately from the people, but from the States which they respectively composed.

make different provision, to which provision the concurrence of two thirds of both Houses shall be necessary.

§ [2] Impeachments of the President and Vice President of the U. States, members of the Senate, the Governours and Presidents of the several States, the Principal or Chief Officers of the Departments enumerated in the 10 §. of the 4th Article, Ambassadors and other like Public Ministers, the Judges of the Supreme Court, Generals, and Admirals of the Navy shall be tried by a Court to consist of the Judges of the Supreme Court, and the Chief Justice or first or Senior Judge of the superior Court of law in each State, of whom twelve shall constitute a Court. A majority of the Judges present may convict. All other persons shall be tried on impeachment by a court to consist of the Judges of the Supreme Court and six Senators drawn by lot, a majority of whom may convict.

Impeachments shall clearly specify the particular offence for which the party accused is to be tried, and judgment on conviction upon the trial thereof shall be either removal from office singly, or removal from office and disqualification for holding any future office or place of trust; but no Judgment on impeachment shall prevent prosecution and punishment in the ordinary course of law; provided that no Judge concerned in such conviction shall sit as Judge on the second trial. The Legislature may remove the disabilities incurred by conviction on impeachment.

ARTICLE VI

Controversies about the right of territory between the United States and particular States shall be determined by a Court to be constituted in manner following. The State or States claiming in opposition to the United States as parties shall nominate a number of persons, equal to double the number of the Judges of the Supreme Court for the time being, of whom none shall be citizens by birth of the States which are parties, nor inhabitants thereof when nominated, and of whom not more than two shall have their actual residence in one State. Out of the persons so nominated the Senate shall elect one half, who together with the Judges of the Supreme Court, shall form the Court. Two thirds of the whole number may hear and determine the controversy, by plurality of voices. The States concerned may at their option claim a decision by the Supreme Court only. All of the members of

Here too were facts on the other side. In two of the States, Connect^t & Rh. Island, the delegates to Cong^s were chosen, not by the Legislatures, but by the

the Court hereby instituted shall, prior to the hearing of the Cause take an oath impartially and according to the best of their judgments and consciences, to hear and determine the controversy.

ARTICLE VII

§ 1. The Legislature of the United States shall have power to pass all laws which they shall judge necessary to the common defence and general welfare of the Union: But no Bill, Resolution, or act of the Senate and assembly shall have the force of a law until it shall have received the assent of the President, or of the vice-President when exercising the powers of the President; and if such assent shall not have been given within ten days, after such bill, resolution or other act shall have been presented to him for that purpose, the same shall not be a law. No bill, resolution or other act not assented to shall be revived in the same Session of the Legislature. The mode of signifying such assent, shall be by signing the bill act of [r] resolution, and returning it so signed to either House of the Legislature.

§ 2. The enacting stile of all laws shall be "Be it enacted by the people of the United States of America."

§ 3. No bill of attainder shall be passed, nor any ex post facto law; nor shall any title of nobility be granted by the United States, or by either of them; nor shall any person holding an office or place of trust under the United States without the permission of the Legislature accept any present, emolument office or title from a foreign prince or State. Nor shall any Religious Sect, or denomination, or religious test for any office or place, be ever established by law.

§ 4. Taxes on lands, houses and other real estate, and capitation taxes shall be proportioned in each State by the whole number of free persons, except Indians not taxed, and by three fifths of all other persons.

§ 5. The two Houses of the Legislature may by joint ballot appoint a Treasurer of the United States. Neither House in the Session of both Houses, without the consent of the other shall adjourn for more than three days at a time. The Senators and Representatives, in attending, going to and coming from the Session of their respective houses shall be privileged from arrest, except for crimes and breaches of the peace. The place of meeting shall always be at the seat of Government which shall be fixed by law.

§ 6. The laws of the United States, and the treaties which have

people at large; and the plan of Mr. P. intended no change in this particular.

It had been alledged (by Mr. Patterson), that the Confederation having been formed by unanimous

been made under the articles of the confederation, and which shall be made under this Constitution shall be the supreme law of the Land, and shall be so construed by the Courts of the several States.

§ 7. The Legislature shall convene at least once in each year, which unless otherwise provided for by law, shall be on the first Monday in December.

§ 8. The members of the two Houses of the Legislature shall receive a reasonable compensation for their services, to be paid out of the Treasury of the United States and ascertained by law. The law for making such provision shall be passed with the concurrence of the first Assembly and shall extend to succeeding Assemblies; and no succeeding assembly shall concur in an alteration of such provision, so as to increase its own compensation; but there shall be always a law in existence for making such provision.

ARTICLE VIII

§ 1. The Governour or President of each State shall be appointed under the authority of the United States, and shall have a right to negative all laws about to be passed in the State of which he shall be Governour or President, subject to such qualifications and regulations, as the Legislature of the United States shall prescribe. He shall in other respects have the same powers only which the Constitution of the State does or shall allow to its Governour or President, except as to the appointment of Officers of the Militia.

§ 2. Each Governour or President of a State shall hold his office until a successor be actually appointed, unless he die, or resign or be removed from office by conviction on impeachment. There shall be no appointment of such Governor or President in the Recess of the Senate.

The Governours and Presidents of the several States at the time of the ratification of this Constitution shall continue in office in the same manner and with the same powers as if they had been appointed pursuant to the first section of this article.

The officers of the Militia in the several States may be appointed under the authority of the U. States; the Legislature whereof may

consent, could be dissolved by unanimous Consent only. Does this doctrine result from the nature of

authorize the Governors or Presidents of States to make such appointments with such restrictions as they shall think proper.

ARTICLE IX

§ 1. No person shall be eligible to the office of President of the United States unless he be now a Citizen of one of the States, or hereafter be born a Citizen of the United States.

§ 2. No person shall be eligible as a Senator or Representative unless at the time of his election he be a Citizen and inhabitant of the State in which he is chosen; provided that he shall not be deemed to be disqualified by a temporary absence from the State.

§ 3. No person entitled by this Constitution to elect or to be elected President of the United States, or a Senator or Representative in the Legislature thereof, shall be disqualified but by the conviction of some offence for which the law shall have previously ordained the punishment of disqualification. But the Legislature may by law provide that persons holding offices under the United States or either of them shall not be eligible to a place in the Assembly or Senate, and shall be during their continuance in office suspended from sitting in the Senate.

§ 4. No person having an office or place of trust under the United States shall without permission of the Legislature accept any present emolument office or title from any foreign Prince or State.

§ 5. The Citizens of each State shall be entitled to the rights privileges and immunities of Citizens in every other State; and full faith and credit shall be given in each State to the public acts, records and judicial proceedings of another.

§ 6. Fugitives from justice from one State who shall be found in another shall be delivered up on the application of the State from which they fled.

§ 7. No new State shall be erected within the limits of another, or by the junction of two or more States, without the concurrent consent of the Legislatures of the United States and of the States concerned. The Legislature of the United States may admit new States into the Union.

§ 8. The United States are hereby declared to be bound to guarantee to each State a Republican form of Government, and to protect each State as well against domestic violence as foreign invasion.

§ 9. All Treaties, Contracts and engagements of the United States

compacts? does it arise from any particular stipulation in the articles of Confederation? If we consider

of America under the articles of Confederation and perpetual Union, shall have equal validity under this Constitution.

§ 10. No State shall enter into a Treaty, Alliance, or contract with another, or with a foreign power without the consent of the United States.

§ 11. The members of the Legislature of the United States and of each State, and all officers Executive & Judicial of the one and of the other shall take an oath or affirmation to support the Constitution of the United States.

§ 12. This Constitution may receive such alterations and amendments as may be proposed by the Legislature of the United States, with the concurrence of two thirds of the members of both Houses, and ratified by the Legislatures of, or by Conventions of deputies chosen by the people in, two thirds of the States composing the Union.

ARTICLE X

This Constitution shall be submitted to the consideration of Conventions in the several States, the members whereof shall be chosen by the people of such States respectively under the direction of their respective Legislatures. Each Convention which shall ratify the same, shall appoint the first representatives and Senators from such State according to the rule prescribed in the —— § of the —— article. The representatives so appointed shall continue in office for one year only. Each Convention so ratifying shall give notice thereof to the Congress of the United States, transmitting at the same time a list of the Representatives and Senators chosen. When the Constitution shall have been duly ratified, Congress shall give notice of a day and place for the meeting of the Senators and Representatives from the several States; and when these or a majority of them shall have assembled according to such notice, they shall by joint ballot, by plurality of votes, elect a President of the United States; and the Constitution thus organized shall be carried into effect.—*Mad. MSS.*

"Col: Hamilton did not propose in the Convention any plan of a Constitution. He had sketched an outline which he read as part of a speech; observing that he did not mean it as a proposition, but only to give a more correct view of his ideas.

"Mr. Patterson regularly proposed a plan which was discussed & voted on."—Madison to John Quincy Adams, Montpellier, Nov. 2, 1818, *Dept. of State MSS.*, Miscellaneous Letters.

the federal Union as analagous to the fundamental compact by which individuals compose one Society, and which must in its theoretic origin at least, have been the unanimous act of the component members, it cannot be said that no dissolution of the compact can be effected without unanimous consent. A breach of the fundamental principles of the compact by a part of the Society would certainly absolve the other part from their obligations to it. If the breach of *any* article by *any* of the parties, does not set the others at liberty, it is because, the contrary is *implied* in the compact itself, and particularly by that law of it, which gives an indefinite authority to the majority to bind the whole in all cases. This latter circumstance shews that we are not to consider the federal Union as analagous to the social compact of individuals: for if it were so, a Majority would have a right to bind the rest, and even to form a new Constitution for the whole, which the Gentl^n^ from N. Jersey would be among the last to admit. If we consider the federal Union as analagous not to the Social compacts among individual men: but to the conventions among individual States, What is the doctrine resulting from these conventions? Clearly, according to the Expositors of the law of Nations, that a breach of any one article by any one party, leaves all the other parties at liberty, to consider the whole convention as dissolved, unless they choose rather to compel the delinquent party to repair the breach. In some treaties indeed it is expressly stipulated

that a violation of particular articles shall not have this consequence, and even that particular articles shall remain in force during war, which in general is understood to dissolve all subsisting Treaties. But are there any exceptions of this sort to the Articles of Confederation? So far from it that there is not even an express stipulation that force shall be used to compell an offending member of the Union to discharge its duty. He observed that the violations of the federal articles had been numerous & notorious. Among the most notorious was an act of N. Jersey herself; by which she *expressly refused* to comply with a Constitutional requisition of Cong^{s}. and yielded no farther to the expostulations of their deputies, than barely to rescind her vote of refusal without passing any positive act of compliance. He did not wish to draw any rigid inferences from these observations. He thought it proper however that the true nature of the existing confederacy should be investigated, and he was not anxious to strengthen the foundations on which it now stands.

Proceeding to the consideration of M^{r}. Patterson's plan, he stated the object of a proper plan to be twofold. 1. to preserve the Union. 2. to provide a Governm^{t} that will remedy the evils felt by the States both in their united and individual capacities. Examine M^{r}. P$^{'s}$ plan, & say whether it promises satisfaction in these respects.

1. Will it prevent the violations of the law of nations & of Treaties which if not prevented must involve us in the calamities of foreign wars? The

tendency of the States to these violations has been manifested in sundry instances. The files of Cong^{s} contain complaints already, from almost every Nation with which treaties have been formed. Hitherto indulgence has been shewn to us. This cannot be the permanent disposition of foreign nations. A rupture with other powers is among the greatest of national calamities. It ought therefore to be effectually provided that no part of a nation shall have it in its power to bring them on the whole. The existing Confederacy does not sufficiently provide against this evil. The proposed amendment to it does not supply the omission. It leaves the will of the States as uncontrouled as ever.

2. Will it prevent encroachments on the federal authority? A tendency to such encroachments has been sufficiently exemplified, among ourselves, as well as in every other confederated republic antient and modern. By the federal articles, transactions with the Indians appertain to Cong^{s} Yet in several instances, the States have entered into treaties & wars with them. In like manner no two or more States can form among themselves any treaties &c. without the consent of Cong^{s} Yet Virg^{a} & Mary^{d} in one instance—Pen^{a} & N. Jersey in another, have entered into compacts, without previous application or subsequent apology. No State again can of right raise troops in time of peace without the like consent. Of all cases of the league, this seems to require the most scrupulous observance. Has not Mass^{ts}, notwithstanding, the most powerful member of the

Union, already raised a body of troops? Is she not now augmenting them, without having even deigned to apprise Cong^{s} of Her intention? In fine—Have we not seen the public land dealt out to Con^{t} to bribe her acquiescence in the decree constitutionally awarded agst her claim on the territory of Pen^{a}: for no other possible motive can account for the policy of Cong^{s} in that measure?—If we recur to the examples of other confederacies, we shall find in all of them the same tendency of the parts to encroach on the authority of the whole. He then reviewed the Amphyctionic & Achæan confederacies among the antients, and the Helvetic, Germanic & Belgic among the moderns, tracing their analogy to the U. States in the constitution and extent of their federal authorities—in the tendency of the particular members to usurp on these authorities, and to bring confusion & ruin on the whole.—He observed that the plan of Mr. Pat[er]son, besides omitting a controul over the States as a general defence of the federal prerogatives was particularly defective in two of its provisions. 1. Its ratification was not to be by the people at large, but by the *legislatures*. It could not therefore render the acts of Cong^{s} in pursuance of their powers, even legally *paramount* to the acts of the States. 2. It gave to the federal Tribunal an appellate jurisdiction only—even in the criminal cases enumerated. The necessity of any such provision supposed a danger of undue acquittals in the State tribunals, of what avail c^{d} an appellate tribunal be, after an acquittal? Besides in most if not

all of the States, the Executives have by their respective *Constitutions*, the right of pard^g^ How could this be taken from them by a *legislative* ratification only?

3. Will it prevent trespasses of the States on each other? Of these enough has been already seen. He instanced Acts of Virg^a^ & Maryland which gave a preference to their own Citizens in cases where the Citizens of other States are entitled to equality of privileges by the Articles of Confederation. He considered the emissions of paper money & other kindred measures as also aggressions. The States relatively to one another being each of them either Debtor or Creditor; The creditor States must suffer unjustly from every emission by the debtor States. We have seen retaliating Acts on the subject which threatened danger not to the harmony only, but the tranquility of the Union. The plan of Mr Paterson, not giving even a negative on the Acts of the States, left them as much at liberty as ever to execute their unrighteous projects ag^st^ each other.

4. Will it secure the internal tranquillity of the States themselves? The insurrections in Mass^ts^ admonished all the States of the danger to which they were exposed. Yet the plan of Mr P. contained no provisions for supplying the defect of the Confederation on this point. According to the Republican theory indeed, Right & power being both vested in the majority, are held to be synonymous. According to fact & experience, a minority may in an appeal to force be an overmatch for the majority.

1. If the minority happen to include all such as possess the skill & habits of military life, with such as possess the great pecuniary resources, one third may conquer the remaining two thirds. 2. one third of those who participate in the choice of rulers may be rendered a majority by the accession of those whose poverty disqualifies them from a suffrage, & who for obvious reasons may be more ready to join the standard of sedition than that of established Government. 3. where slavery exists, the Republican Theory becomes still more fallacious.

5. Will it secure a good internal legislation & administration to the particular States? In developing the evils which vitiate the political system of the U. S. it is proper to take into view those which prevail within the States individually as well as those which affect them collectively: Since the former indirectly affect the whole; and there is great reason to believe that the pressure of them had a full share in the motives which produced the present Convention. Under this head he enumerated and animadverted on 1. the multiplicity of the laws passed by the several States. 2. the mutability of their laws. 3. the injustice of them. 4. the impotence of them: observing that Mr. Patterson's plan contained no remedy for this dreadful class of evils, and could not therefore be received as an adequate provision for the exigencies of the Community.

6. Will it secure the Union agst. the influence of foreign powers over its members. He pretended not to say that any such influence had yet been

tried: but it was naturally to be expected that occasions would produce it. As lessons which claimed particular attention, he cited the intrigues practised among the Amphyctionic Confederates first by the Kings of Persia, and afterwards fatally by Philip of Macedon: Among the Achæans, first by Macedon & afterwards no less fatally by Rome: among the Swiss by Austria, France & the lesser neighbouring powers: among the members of the Germanic Body by France, England, Spain & Russia—And in the Belgic Republic, by all the great neighbouring powers. The plan of Mr. Patterson, not giving to the general Councils any negative on the will of the particular States, left the door open for the like pernicious Machinations among ourselves.

7. He begged the smaller States which were most attached to Mr. Patterson's plan to consider the situation in which it would leave them. In the first place they would continue to bear the whole expence of maintaining their Delegates in Congress. It ought not to be said that if they were willing to bear this burthen, no others had a right to complain. As far as it led the small States to forbear keeping up a representation, by which the public business was delayed, it was evidently a matter of common concern. An examination of the minutes of Congress would satisfy every one that the public business had been frequently delayed by this cause; and that the States most frequently unrepresented in Congs. were not the larger States. He reminded the Convention of another consequence of leaving on a

small State the burden of maintaining a Representation in Cong^s. During a considerable period of the War, one of the Representatives of Delaware, in whom alone before the signing of the Confederation the entire vote of that State and after that event one half of its vote, frequently resided, was a Citizen & Resident of Pen^a and held an office in his own State incompatible with an appointment from it to Cong^s. During another period, the same State was represented by three delegates two of whom were citizens of Penn^a and the third a Citizen of New Jersey. These expedients must have been intended to avoid the burden of supporting Delegates from their own State. But whatever might have been ye cause, was not in effect the vote of one State doubled, and the influence of another increased by it? In the 2^d place the coercion, on which the efficacy of the plan depends, can never be exerted but on themselves. The larger States will be impregnable, the smaller only can feel the vengeance of it. He illustrated the position by the history of the Amphyctionic confederates: and the ban of the German Empire. It was the cobweb wch could entangle the weak, but would be the sport of the strong.

8. He begged them to consider the situation in which they would remain in case their pertinacious adherence to an inadmissible plan, should prevent the adoption of any plan. The contemplation of such an event was painful; but it would be prudent to submit to the task of examining it at a distance, that the means of escaping it might be the more

readily embraced. Let the Union of the States be dissolved, and one of two consequences must happen. Either the States must remain individually independent & sovereign; or two or more Confederacies must be formed among them. In the first event would the small States be more secure ag^st^ the ambition & power of their larger neighbours, than they would be under a General Government pervading with equal energy every part of the Empire, and having an equal interest in protecting every part ag^st^ every other part? In the second, can the smaller expect that their larger neighbours would confederate with them on the principle of the present Confederacy, which gives to each member, an equal suffrage; or that they would exact less severe concessions from the smaller States, than are proposed in the scheme of Mr Randolph?

The great difficulty lies in the affair of Representation; and if this could be adjusted, all others would be surmountable. It was admitted by both the gentlemen from N. Jersey, (Mr Brearly and Mr Patterson) that it would not be *just to allow Virg^a^* which was 16 times as large as Delaware an equal vote only. Their language was that it would not be *safe for Delaware* to allow Virg^a^ 16 times as many votes. The expedient proposed by them was that all the States should be thrown into one mass and a new partition be made into 13 equal parts. Would such a scheme be practicable? The dissimilarities existing in the rules of property, as well as in the manners, habits and prejudices of the different

States, amounted to a prohibition of the attempt. It had been found impossible for the power of one of the most absolute princes in Europe (K. of France) directed by the wisdom of one of the most enlightened and patriotic Ministers (Mr Neckar) that any age has produced, to equalize in some points only the different usages & regulations of the different provinces. But admitting a general amalgamation and repartition of the States to be practicable, and the danger apprehended by the smaller States from a proportional representation to be real; would not a particular and voluntary coalition of these with their neighbours, be less inconvenient to the whole community, and equally effectual for their own safety. If N. Jersey or Delaware conceived that an advantage would accrue to them from an equalization of the States, in which case they would necessaryly form a junction with their neighbours, why might not this end be attained by leaving them at liberty by the Constitution to form such a junction whenever they pleased? And why should they wish to obtrude a like arrangement on all the States, when it was, to say the least, extremely difficult, would be obnoxious to many of the States, and when neither the inconveniency, nor the benefit of the expedient to themselves, would be lessened by confining it to themselves.—The prospect of many new States to the Westward was another consideration of importance. If they should come into the Union at all, they would come when they contained but few inhabitants. If they shd be entitled to vote according

to their proportions of inhabitants, all would be right & safe. Let them have an equal vote, and a more objectionable minority than ever might give law to the whole.[1]

On a question for postponing generally the 1st proposition of Mr. Patterson's plan, it was agreed to: N. Y. & N. J. only being no.

On the question moved by Mr. King whether the Comitee should rise & Mr. Randolph's proposition be reported without alteration, which was in fact a question whether Mr. R's should be adhered to as preferable to those of Mr. Patterson;

Mass.ts ay. Con.t ay. N. Y. no. N. J. no. Pa. ay. Del. no. Md. div.d Va. ay. N. C. ay. S. C. ay. Geo. ay.

Copy of the Resol.ns of Mr. R. as altered in Com.e and reported to the House.

(Of Mr. Randolph's plan as reported from the Comittee)—the 1. propos: "that a Nat.l Gov.t ought to be established consisting &c." being taken up in the House.

Mr. Wilson observed that by a Nat.l Gov.t he did not mean one that would swallow up the State Gov.ts as seemed to be wished by some gentlemen. He was tenacious of the idea of preserving the latter. He thought, contrary to the opinion of (Col. Hamilton) that they might not only subsist but subsist on friendly terms with the former. They were ab-

[1] "Mr. Dickinson supposed that there were good regulations in both. Let us therefore contrast the one with the other, and consolidate such parts of them as the committee approve."—Yates, *Secret Proceedings*, etc., 140.

solutely necessary for certain purposes which the former could not reach. All large Governments must be subdivided into lesser jurisdictions. As Examples he mentioned Persia, Rome, and particularly the divisions & subdivisions of England by Alfred.

Col. Hamilton coincided with the proposition as it stood in the Report. He had not been understood yesterday. By an abolition of the States, he meant that no boundary could be drawn between the National & State Legislatures; that the former must therefore have indefinite authority. If it were limited at all, the rivalship of the States would gradually subvert it. Even as Corporations the extent of some of them as V^a^ Mass^ts^ &c would be formidable. *As States*, he thought they ought to be abolished. But he admitted the necessity of leaving in them, subordinate jurisdictions. The examples of Persia & the Roman Empire, cited by (Mr Wilson) were he thought in favor of his doctrine: the great powers delegated to the Satraps & proconsuls having frequently produced revolts, and schemes of independence.

Mr King wished as every thing depended on this proposition, that no objections might be improperly indulged ag^st^ the phraseology of it. He conceived that the import of the term "States" "Sovereignty" "*national*" "federal," had been often used & applied in the discussions inaccurately & delusively. The States were not "Sovereigns" in the sense contended for by some. They did not possess the

peculiar features of sovereignty, they could not make war, nor peace, nor alliances nor treaties. Considering them as political Beings, they were dumb, for they could not speak to any forēgn Sovereign whatever. They were deaf, for they could not hear any propositions from such Sovereign. They had not even the organs or faculties of defence or offence, for they could not of themselves raise troops, or equip vessels, for war. On the other side, if the Union of the States comprises the idea of a confederation, it comprises that also of consolidation. A Union of the States is a Union of the men composing them, from whence a *national* character results to the whole. Cong.s can act alone without the States—they can act & their acts will be binding ag.st the Instructions of the States. If they declare war: war is de jure declared—captures made in pursuance of it are lawful—no Acts of the States can vary the situation, or prevent the judicial consequences. If the States therefore retained some portion of their sovereignty, they had certainly divested themselves of essential portions of it. If they formed a confederacy in some respects—they formed a Nation in others. The Convention could clearly deliberate on & propose any alterations that Cong.s could have done under y.e federal articles, and Could not Cong.s propose by virtue of the last article, a change in any article whatever; and as well that relating to the equality of suffrage, as any other. He made these remarks to obviate some scruples which had been expressed. He doubted much the practicability of annihilating

the States; but thought that much of their power ought to be taken from them.[1]

[1] King, in his notes, gives a résumé of his speech. It illustrates the accuracy of Madison's reporting:

"Answer (R. King) The States under the confed. are not sovereign States they can do no act but such as are of a subordinate nature or such as terminate in themselves—and even these are restrained—coinage, P. office &c they are wholly incompetent to the exercise of any of the gt. & distinguishing acts of sovereignty—They can neither make nor receive (embassies) to or from any other sovereign—they have not the powers of injuring another or of defending themselves from an Injury offered from one another—they are deaf, dumb and impotent—these Faculties are yielded up and the U. S. in C. Assd. hold and possess them, and they alone can exercise them—they are so far out of the controul of the separate States yt. if every State in the Union was to instruct yr. Deleg., and those Delegates within ye powers of the Arts. of Union shd. do an act in violation of their Instructions it wd. nevertheless be valid. If they declared a war, any giving aid or comfort to the enemy wd. be Treason; if peace, any capture on the high seas wd. be piracy. This remark proves yt. the States are now subordinate corporations or societies and not sovereigns—these imperfect States are the confederates and they are the electors of the magistrates who exercise the national sovereignty. The Articles of Confedr. and perpetual Union, are partly federal & partly of the nature of a constitution or form of Govt. arising from and applying to the Citizens of the U. S. & not from the individual States.

"The only criterion of determining what is federal & what is national is this, those acts which are for the government of the States only are purely federal, those which are for the government of the Citizens of the individual States are national and not federal.

"If then the articles of Confedr. & perpetual union have this two-fold capacity, and if they provide for an alteration in a certain mode, why may not they be so altered as that the federal article may be changed to a national one, and the national to a federal? I see no argument that can be objected to the authority. The 5th article regulates the influence of the several States and makes them equal—does not the confed. authorize this alteration, that instead of this Equality, one state may have double the Influence of another—I conceive it does—and so of every Article except that wh. destroys the Idea of a confedy. I think it may be proved that every article may be totally altered provided you have one guarantying to each State the right of

Mr. Martin.[1] said he considered that the separation from G. B. placed the 13 States in a state of Nature towards each other; that they would have remained in that state till this time, but for the confederation; that they entered into the Confederation on the footing of equality; that they met now to amend it on the same footing; and that he could never accede to a plan that would introduce an inequality and lay 10 States at the mercy of Va. Masts. and Penna.

Mr. Wilson. could not admit the doctrine that when the Colonies became independent of G. Britain, they became independent also of each other. He read the declaration of Independence, observing

regulating its private & internal affairs in the manner of a subordinate corporation.

"But admitting that the Arts. of Confed. & perpet. Union, or the powers of the Legis. did not extend to the proposed Reform; yet the public Deputations & the public Danger require it—the system proposed to be adopted is no scheme of a day, calculated to postpone the hour of Danger, & thus leave it to fall with double ruin on our successors—It is no crude and undigested plan; the child of narrow and unextensive views, brought forward under the Auspices of Cowardice & Irresolution—It is a measure of Decision, it is the foundation of Freedom & of national Glory. It will draw on itself and be able to support the severest scrutiny & Examination. It is no idle experiment, no romantic speculation—the measure forces itself upon wise men, and if they have not firmness to look it in the face and protect it—Farewell to the Freedom of our Government—our military glory will be tarnished and our boasts of Freedom will be the scorn of the Enemies of Liberty."—*Life and Correspondence of Rufus King*, i., 602, n.

[1] "Mr. Martin was educated for the Bar, and is Attorney general for the State of Maryland. This Gentleman possesses a good deal of information, but he has a very bad delivery, and so extremely prolix, that he never speaks without tiring the patience of all who hear him. He is about 34 years of age." — Pierce's Notes, *Am. Hist. Rev.*, iii., 330.

thereon that the *United Colonies* were declared to be free & independent States; and inferring that they were independent, not *individually* but *Unitedly* and that they were confederated as they were independent, States.

Col. Hamilton assented to the doctrine of Mr. Wilson. He denied the doctrine that the States were thrown into a State of Nature He was not yet prepared to admit the doctrine that the Confederacy, could be dissolved by partial infractions of it. He admitted that the States met now on an equal footing but could see no inference from that against concerting a change of the system in this particular. He took this occasion of observing for the purpose of appeasing the fears of the small States, that two circumstances would render them secure under a National Gov.t in which they might lose the equality of rank they now held: one was the local situation of the 3 largest States Virg.a Mass.ts & P.a They were separated from each other by distance of place, and equally so, by all the peculiarities which distinguish the interests of one State from those of another. No combination therefore could be dreaded. In the second place, as there was a gradation in the States from V.a the largest down to Delaware the smallest, it would always happen that ambitious combinations among a few States might & w.d be counteracted by defensive combinations of greater extent among the rest. No combination has been seen among the large Counties merely as such, ag.st lesser Counties. The more close the Union of the States,

and the more compleat the authority of the whole: the less opportunity will be allowed to the stronger States to injure the weaker.

Adj^d.

WEDNESDAY JUNE 20. 1897. IN CONVENTION.

M^r. William Blount from N. Carolina took his seat.

1st. propos: of the Report of Com^e. of the whole, before the House

M^r. Elseworth 2^ded by M^r. Gorham, moves to alter it so as to run "that the Government of the United States ought to consist of a supreme legislative, Executive and Judiciary." This alteration he said would drop the word *national*, and retain the proper title "the United States." He could not admit the doctrine that a breach of any of the federal articles could dissolve the whole. It would be highly dangerous not to consider the Confederation as still subsisting. He wished also the plan of the Convention to go forth as an amendment of the articles of the Confederation, since under this idea the authority of the Legislatures could ratify it. If they are unwilling, the people will be so too. If the plan goes forth to the people for ratification several succeeding Conventions within the States would be unavoidable. He did not like these conventions. They were better fitted to pull down than to build up Constitutions.

M^r. Randolph. did not object to the change of expression, but apprised the gentleman who wished for it that he did not admit it for the reasons assigned;

particularly that of getting rid of a reference to the people for ratification. The motion of Mr. Elsewth was acquiesced in nem: con:

The 2d Resol: "that the National Legislature ought to consist of two branches" taken up, the word "national" struck out as of course.

Mr. Lansing. observed that the true question here was, whether the Convention would adhere to or depart from the foundation of the present Confederacy; and moved instead of the 2d Resolution, "that the powers of Legislation be vested in the U. States in Congress." He had already assigned two reasons agst such an innovation as was proposed: 1. the want of competent powers in the Convention. —2. the state of the public mind. It had been observed by (Mr. Madison) in discussing the first point, that in two States the Delegates to Congs were chosen by the people. Notwithstanding the first appearance of this remark, it had in fact no weight, as the Delegates however chosen, did not represent the people merely as so many individuals; but as forming a Sovereign State. (Mr. Randolph) put it, he said, on its true footing namely that the public safety superseded the scruple arising from the review of our powers. But in order to feel the force of this consideration, the same impression must be had of the public danger. He had not himself the same impression, and could not therefore dismiss his scruple. (Mr. Wilson) contended that as the Convention were only to recommend, they might recommend what they pleased. He differed much from

him. Any act whatever of so respectable a body must have a great effect, and if it does not succeed, will be a source of great dissentions. He admitted that there was no certain criterion of the Public mind on the subject. He therefore recurred to the evidence of it given by the opposition in the States to the scheme of an Impost. It could not be expected that those possessing Sovereignty could ever voluntarily part with it. It was not to be expected from any one State, much less from thirteen. He proceeded to make some observations on the plan itself and the argum^ts^ urged in support of it. The point of Representation could receive no elucidation from the case of England. The corruption of the boroughs did not proceed from their comparative smallness; but from the actual fewness of the inhabitants, some of them not having more than one or two. A great inequality existed in the Counties of England. Yet the like complaint of peculiar corruption in the small ones had not been made. It had been said that Congress represent the State Prejudices: will not any other body whether chosen by the Legislatures or people of the States, also represent their prejudices? It had been asserted by his colleague (Col. Hamilton) that there was no coincidence of interests among the large States that ought to excite fears of oppression in the smaller. If it were true that such a uniformity of interests existed among the States, there was equal safety for all of them, whether the representation remained as heretofore, or were proportioned as now proposed.

It is proposed that the Genl Legislature shall have a negative on the laws of the States. Is it conceivable that there will be leisure for such a task? There will on the most moderate calculation, be as many Acts sent up from the States as there are days in the year. Will the members of the General Legislature be competent Judges? Will a gentleman from Georgia be a judge of the expediency of a law which is to operate in N. Hampshire. Such a Negative would be more injurious than that of Great Britain heretofore was. It is said that the National Gov^{t} must have the influence arising from the grant of offices and honors. In order to render such a Government effectual he believed such an influence to be necessary. But if the States will not agree to it, it is in vain, worse than in vain to make the proposition. If this influence is to be attained, the States must be entirely abolished. Will any one say this would ever be agreed to? He doubted whether any Genl Government equally beneficial to all can be attained. That now under consideration he is sure, must be utterly unattainable. He had another objection. The system was too novel & complex. No man could foresee what its operation will be either with respect to the Genl Gov^{t} or the State Gov^{ts} One or other it has been surmised must absorb the whole.

Col. Mason. did not expect this point would have been reagitated. The essential differences between the two plans, had been clearly stated. The principal objections agst that of Mr R. were the *want of*

power & the *want of practicability*. There can be no weight in the first as the fiat is not to be *here*, but in the people. He thought with his colleague Mr. R. that there were besides certain crisises, in which all the ordinary cautions yielded to public necessity. He gave as an example, the eventual Treaty with G. B. in forming which the Comrs of the U. S. had boldly disregarded the improvident shackles of Congs. had given to their Country an honorable & happy peace, and instead of being censured for the transgression of their powers, had raised to themselves a monument more durable than brass. The *impracticability* of gaining the public concurrence he thought was still more groundless. (Mr. Lansing) had cited the attempts of Congress to gain an enlargement of their powers, and had inferred from the miscarriage of these attempts, the hopelessness of the plan which he (Mr. L) opposed. He thought a very different inference ought to have been drawn; viz that the plan which (Mr. L) espoused, and which proposed to augment the powers of Congress, never could be expected to succeed. He meant not to throw any reflections on Congs. as a body, much less on any particular members of it. He meant however to speak his sentiments without reserve on this subject; it was a privilege of age, and perhaps the only compensation which nature had given for, the privation of so many other enjoyments: and he should not scruple to exercise it freely. Is it to be thought that the people of America, so watchful over their interests; so jealous of their liberties, will give up

their all, will surrender both the sword and the purse, to the same body, and that too not chosen immediately by themselves? They never will. They never ought. Will they trust such a body, with the regulation of their trade, with the regulation of their taxes; with all the other great powers, which are in contemplation? Will they give unbounded confidence to a secret Journal—to the intrigues—to the factions which in the nature of things appertain to such an Assembly? If any man doubts the existence of these characters of Congress, let him consult their Journals for the years 78, 79, & 80.—It will be said, that if the people are averse to parting with power, why is it hoped that they will part with it to a National Legislature.' The proper answer is that in this case they do not part with power: they only transfer it from one sett of immediate Representatives to another sett.—Much has been said of the unsettled state of the mind of the people, he believed the mind of the people of America, as elsewhere, was unsettled as to some points; but settled as to others. In two points he was sure it was well settled. 1. in an attachment to Republican Government. 2. in an attachment to more than one branch in the Legislature. Their constitutions accord so generally in both these circumstances, that they seem almost to have been preconcerted. This must either have been a miracle, or have resulted from the genius of the people. The only exceptions to the establishm^t of two branches in the Legislatures are the State of P^a & Cong^s and the latter the only

single one not chosen by the people themselves. What has been the consequence? The people have been constantly averse to giving that Body further powers—It was acknowledged by (Mr Patterson) that his plan could not be enforced without military coercion. Does he consider the force of this concession. The most jarring elements of Nature; fire & water themselves are not more incompatible that[n] such a mixture of civil liberty and military execution. Will the militia march from one State to another, in order to collect the arrears of taxes from the delinquent members of the Republic? Will they maintain an army for this purpose? Will not the Citizens of the invaded State assist one another till they rise as one Man, and shake off the Union altogether. Rebellion is the only case, in which the military force of the State can be properly exerted agst its Citizens. In one point of view he was struck with horror at the prospect of recurring to this expedient. To punish the non-payment of taxes with death, was a severity not yet adopted by despotism itself: yet this unexampled cruelty would be mercy compared to a military collection of revenue, in which the bayonet could make no discrimination between the innocent and the guilty. He took this occasion to repeat, that notwithstanding his solicitude to establish a national Government, he never would agree to abolish the State Govts or render them absolutely insignificant. They were as necessary as the Genl Govt and he would be equally careful to preserve them. He was aware of the

difficulty of drawing the line between them, but hoped it was not insurmountable. The Convention, tho' comprising so many distinguished characters, could not be expected to make a faultless Gov^{t}. And he would prefer trusting to Posterity the amendment of its defects, rather than to push the experiment too far.

Mr Luther Martin agreed with (Col Mason) as to the importance of the State Gov^{ts} he would support them at the expence of the Genl Gov^{t} which was instituted for the purpose of that support. He saw no necessity for two branches, and if it existed Congress might be organized into two. He considered Cong^{s} as representing the people, being chosen by the Legislatures who were chosen by the people. At any rate, Congress represented the Legislatures; and it was the Legislatures not the people who refused to enlarge their powers. Nor could the rule of voting have been the ground of objection, otherwise ten of the States must always have been ready, to place further confidence in Cong^{s}. The causes of repugnance must therefore be looked for elsewhere.—At the separation from the British Empire, the people of America preferred the establishment of themselves into thirteen separate sovereignties instead of incorporating themselves into one: to these they look up for the security of their lives, liberties & properties: to these they must look up. The federal Gov^{t} they formed, to defend the whole agst foreign nations, in case of war, and to defend the lesser States agst the ambition of the larger: they are

afraid of granting power unnecessarily, lest they should defeat the original end of the Union; lest the powers should prove dangerous to the sovereignties of the particular States which the Union was meant to support; and expose the lesser to being swallowed up by the larger. He conceived also that the people of the States having already vested their powers in their respective Legislatures, could not resume them without a dissolution of their Governments. He was ag.st Conventions in the States: was not ag.st assisting States ag.st rebellious subjects; thought the *federal* plan of Mr. Patterson did not require coercion more than the *National one*, as the latter must depend for the deficiency of its revenues on requisitions & quotas, and that a national Judiciary extended into the States would be ineffectual, and would be viewed with a jealousy inconsistent with its usefulness.

Mr. Sherman 2ded & supported Mr. Lansings motion. He admitted two branches to be necessary in the State Legislatures, but saw no necessity for them in a Confederacy of States. The examples were all, of a single Council. Cong.s carried us thro' the war, and perhaps as well as any Gov.t could have done. The complaints at present are not that the views of Cong.s are unwise or unfaithful; but that their powers are insufficient for the execution of their views. The national debt & the want of power somewhere to draw forth the National resources, are the great matters that press. All the States were sensible of the defect of power in

Cong^{s} He thought much might be said in apology for the failure of the State Legislatures to comply with the Confederation. They were afraid of leaning too hard on the people, by accumulating taxes; no *constitutional* rule had been or could be observed in the quotas—the Accounts also were unsettled & every State supposed itself in advance, rather than in arrears. For want of a general system, taxes to a due amount had not been drawn from trade which was the most convenient resource. As almost all the States had agreed to the recommendation of Cong^{s} on the subject of an impost, it appeared clearly that they were willing to trust Cong^{s} with power to draw a revenue from Trade. There is no weight therefore in the argument drawn from a distrust of Cong^{s} for money matters being the most important of all, if the people will trust them with power as to them, they will trust them with any other necessary powers. Cong^{s} indeed by the confederation have in fact the right of saying how much the people shall pay, and to what purpose it shall be applied: and this right was granted to them in the expectation that it would in all cases have its effect. If another branch were to be added to Cong^{s} to be chosen by the people, it would serve to embarrass. The people would not much interest themselves in the elections, a few designing men in the large districts would carry their points, and the people would have no more confidence in their new representatives than in Cong^{s} He saw no reason why the State Legislatures should be unfriendly as had been

suggested, to Cong^s. If they appoint Cong^s and approve of their measures, they would be rather favourable and partial to them. The disparity of the States in point of size he perceived was the main difficulty. But the large States had not yet suffered from the equality of votes enjoyed by the small ones. In all great and general points, the interests of all the States were the same. The State of Virg^a notwithstanding the equality of votes, ratified the Confederation without, or even proposing, any alteration. Mass^ts also ratified without any material difficulty &c. In none of the ratifications is the want of two branches noticed or complained of. To consolidate the States as some had proposed would dissolve our Treaties with foreign Nations, which had been formed with us, as *Confederated* States. He did not however suppose that the creation of two branches in the Legislature would have such an effect. If the difficulty on the subject of representation can not be otherwise got over, he would agree to have two branches, and a proportional representation in one of them, provided each State had an equal voice in the other. This was necessary to secure the rights of the lesser States; otherwise three or four of the large States would rule the others as they please. Each State like each individual had its peculiar habits usages and manners, which constituted its happiness. It would not therefore give to others a power over this happiness, any more than an individual would do, when he could avoid it.

M^r. Wilson. urged the necessity of two branches; observed that if a proper model were not to be found in other Confederacies it was not to be wondered at. The number of them was small & the duration of some at least short. The Amphyctionic and Achæan were formed in the infancy of political Science; and appear by their History & fate, to have contained radical defects. The Swiss & Belgic Confederacies were held together not by any vital principle of energy but by the incumbent pressure of formidable neighbouring nations: The German owed its continuance to the influence of the H. of Austria. He appealed to our own experience for the defects of our Confederacy. He had been 6 years in the 12 since the commencement of the Revolution, a member of Congress, and had felt all its weaknesses. He appealed to the recollection of others whether on many important occasions, the public interest had not been obstructed by the small members of the Union. The success of the Revolution was owing to other causes, than the Constitution of Congress. In many instances it went on even ag^st. the difficulties arising from Cong^s. themselves. He admitted that the large States did accede as had been stated, to the Confederation in its present form. But it was the effect of necessity not of choice. There are other instances of their yielding from the same motive to the unreasonable measures of the small States. The situation of things is now a little altered. He insisted that a jealousy would exist between the State Legislatures & the General Legislature:

observing that the members of the former would have views & feelings very distinct in this respect from their constituents. A private Citizen of a State is indifferent whether power be exercised by the Gen.l or State Legislatures, provided it be exercised most for his happiness. His representative has an interest in its being exercised by the body to which he belongs. He will therefore view the National Legisl: with the eye of a jealous rival. He observed that the addresses of Cong.s to the people at large, had always been better received & produced greater effect, than those made to the Legislatures.

On the question for postponing in order to take up M.r Lansing's proposition "to vest the powers of legislation in Cong.s"

Mass.ts no. Con.t ay. N. Y. ay. N. J. ay P.a no. Del. ay. M.d div.d V.a no. N. C. no. S. C. no. Geo. no.

On motion of the Deputies from Delaware, the question on the 2.d Resolution in the Report from the Committee of the whole was postponed till tomorrow.

Adj.d

THURSDAY JUNE 21. IN CONVENTION.

M.r Jonathan Dayton from N. Jersey took his seat.[1]

[1] From June 21 to July 18 inclusive not copied by M.r Eppes.—Madison's Note. This applies evidently to notes he permitted Hon. George W. Eppes, Jefferson's son-in-law, to take.

Doc^{r} Johnson.[1] On a comparison of the two plans which had been proposed from Virginia & N. Jersey, it appeared that the peculiarity which characterized the latter was its being calculated to preserve the individuality of the States. The plan from V^{a} did not profess to destroy this individuality altogether, but was charged with such a tendency. One Gentleman alone (Col. Hamilton) in his animadversions on the plan of N. Jersey, boldly and decisively contended for an abolition of the State Gov^{ts} Mr Wilson & the gentleman from Virg^{a} who also were adversaries of the plan of N. Jersey held a different language. They wished to leave the States in possession of a considerable, tho' a subordinate jurisdiction. They had not yet however shewn how this c^{d} consist with, or be secured agst the general sovereignty & jurisdiction, which they proposed to give to the National Government. If this could be shewn in such a manner as to satisfy the patrons of the N.

[1] "Dr Johnson is a character much celebrated for his legal knowledge; he is said to be one of the first classics in America, and certainly possesses a very strong and enlightened understanding.

"As an Orator in my opinion, there is nothing in him that warrants the high reputation which he has for public speaking. There is something in the tone of his voice not pleasing to the Ear,—but he is eloquent and clear,—always abounding with information and instruction. He was once employed as an Agent for the State of Connecticut to state her claims to certain landed territory before the British House of Commons; this Office he discharged with so much dignity, and made such an ingenious display of his powers, that he laid the foundation of a reputation which will probably last much longer than his own life. Dr Johnson is about sixty years of age, posseses the manners of a Gentleman, and engages the Hearts of Men by the sweetness of his temper, and that affectionate style of address with which he accosts his acquaintance."—Pierce's Notes, *Am. Hist. Rev.*, iii., 326.

Jersey propositions, that the individuality of the States would not be endangered, many of their objections would no doubt be removed. If this could not be shewn their objections would have their full force. He wished it therefore to be well considered whether in case the States, as was proposed, sh^{d} retain some portion of sovereignty at least, this portion could be preserved, without allowing them to participate effectually in the Genl Gov^{t}, without giving them each a distinct and equal vote for the purpose of defending themselves in the general Councils.

Mr Wilson's respect for Doc^{r} Johnson, added to the importance of the subject led him to attempt, unprepared as he was, to solve the difficulty which had been started. It was asked how the Genl Gov^{t} and individuality of the particular States could be reconciled to each other; and how the latter could be secured agst the former? Might it not, on the other side be asked how the former was to be secured agst the latter? It was generally admitted that a jealousy & rivalship would be felt between the Genl & particular Gov^{ts} As the plan now stood, tho' indeed contrary to his opinion, one branch of the Genl Gov^{t} (the Senate or second branch) was to be appointed by the State Legislatures. The State Legislatures, therefore, by this participation in the Genl Gov^{t} would have an opportunity of defending their rights. Ought not a reciprocal opportunity to be given to the Genl Gov^{t} of defending itself by having an appointment of some one constituent branch of the State Gov^{ts} If a security be necessary on one

side, it w^d^ seem reasonable to demand it on the other. But taking the matter in a more general view, he saw no danger to the States from the Genl Gov^t^ In case a combination should be made by the large ones it w^d^ produce a general alarm among the rest; and the project w^d^ be frustrated. But there was no temptation to such a project. The States having in general a similar interest, in case of any propositions in the National Legislature to encroach on the State Legislatures, he conceived a general alarm w^d^ take place in the National Legislature itself, that it would communicate itself to the State Legislatures, and w^d^ finally spread among the people at large. The Genl Gov^t^ will be as ready to preserve the rights of the States as the latter are to preserve the rights of individuals; all the members of the former, having a common interest, as representatives of all the people of the latter, to leave the State Gov^ts^ in possession of what the people wish them to retain. He could not discover, therefore any danger whatever on the side from which it was apprehended. On the contrary, he conceived that in spite of every precaution the General Gov^t^ would be in perpetual danger of encroachments from the State Gov^ts^

Mr Madison was of opinion that there was 1. less danger of encroachment from the Genl Gov^t^ than from the State Gov^ts^ 2. that the mischief from encroachments would be less fatal if made by the former, than if made by the latter. 1. All the examples of other confederacies prove the greater tendency in such systems to anarchy than to

tyranny; to a disobedience of the members than usurpations of the federal head. Our own experience had fully illustrated this tendency.—But it will be said that the proposed change in the principles & form of the Union will vary the tendency; that the Gen.l Gov.t will have real & greater powers, and will be derived in one branch at least from the people, not from the Gov.ts of the States. To give full force to this objection, let it be supposed for a moment that indefinite power should be given to the Gen.l Legislature, and the States reduced to Corporations dependent on the Gen.l Legislature; Why sh.d it follow that the Gen.l Gov.t w.d take from the States any branch of their power as far as its operation was beneficial, and its continuance desireable to the people? In some of the States, particularly in Connecticut, all the Townships are incorporated, and have a certain limited jurisdiction. Have the Representatives of the people of the Townships in the Legislature of the State ever endeavoured to despoil the Townships of any part of their local authority? As far as this local authority is convenient to the people they are attached to it; and their representatives chosen by & amenable to them, naturally respect their attachment to this, as much as their attachment to any other right or interest. The relation of a General Gov.t to State Gov.ts is parallel. 2. Guards were more necessary ag.st encroachments of the State Gov.ts on the Gen.l Gov.t than of the latter on the former. The great objection made ag.st an abolition of the State Gov.ts was that the Gen.l

ov.t could not extend its care to all the minute jects which fall under the cognizance of the local isdictions. The objection as stated lay not agst. e probable abuse of the general power, but agst the perfect use that could be made of it throughout great an extent of country, and over so great a riety of objects. As far as its operation would be acticable it could not in this view be improper; far as it would be impracticable, the conveniency the Genl Govt itself would concur with that of the eople in the maintenance of subordinate Governments. Were it practicable for the Genl Govt to xtend its care to every requisite object without the operation of the State Govts the people would not e less free as members of one great Republic than s members of thirteen small ones. A Citizen of Delaware was not more free than a Citizen of Virginia: nor would either be more free than a Citizen of America. Supposing therefore a tendency in the Genl Government to absorb the State Govts no fatal consequence could result. Taking the reverse as the supposition, that a tendency should be left in the State Govts towards an independence on the General Govt and the gloomy consequences need not be pointed out. The imagination of them, must have suggested to the States the experiment we are now making to prevent the calamity, and must have formed the chief motive with those present to undertake the arduous task.

On the question for resolving "that the Legislature ought to consist of two Branches"

Mass. ay. Con^{t} ay. N. Y. no. N. Jersey, no. P^{a} ay. Del. no. M^{d} div^{d} V^{a} ay. N. C. ay. S. C. ay. Geo. ay.

The *third* resolution of the Report taken into consideration.

Genl Pinkney moved "that the 1st branch, instead of being elected by the people, sh^{d} be elected in such manner as the Legislature of each State should direct." He urged 1. that this liberty would give more satisfaction, as the Legislatures could then accommodate the mode to the conveniency & opinions of the people. 2. that it would avoid the undue influence of large Counties which would prevail if the elections were to be made in districts as must be the mode intended by the Report of the Committee. 3. that otherwise disputed elections must be referred to the General Legislature which would be attended with intolerable expence and trouble to the distant parts of the Republic.

Mr L. Martin seconded the Motion.[1]

Col. Hamilton considered the Motion as intended manifestly to transfer the election from the people to the State Legislatures, which would essentially vitiate the plan. It would increase that State influence which could not be too watchfully guarded agst All too must admit the possibility, in case the Genl Gov^{t} sh^{d} maintain itself, that the State Gov^{ts}

[1] After Martin's second, according to Yates:

"Mr Madison. I oppose the motion—there are no difficulties, but they may be obviated in the details connected with the subject." —Yates, *Secret Proceedings*, etc., 149.

might gradually dwindle into nothing. The system therefore sh^d^ not be engrafted on what might possibly fail.

Mr Mason urged the necessity of retaining the election by the people. Whatever inconveniency may attend the democratic principle, it must actuate one part of the Gov^t^ It is the only security for the rights of the people.

Mr Sherman, would like an election by the Legislatures best, but is content with the plan as it stands.

Mr Rutlidge could not admit the solidity of the distinction between a mediate & immediate election by the people. It was the same thing to act by oneself, and to act by another. An election by the Legislature would be more refined than an election immediately by the people: and would be more likely to correspond with the sense of the whole community. If this Convention had been chosen by the people in districts it is not to be supposed that such proper characters would have been preferred. The Delegates to Cong^s^ he thought had also been fitter men than would have been appointed by the people at large.

Mr Wilson considered the election of the 1st branch by the people not only as the Corner Stone, but as the foundation of the fabric: and that the difference between a mediate & immediate election was immense. The difference was particularly worthy of notice in this respect: that the Legislatures are actuated not merely by the sentiment of the people; but have an official sentiment opposed to that of the

Gen.l Gov.t and perhaps to that of the people themselves.

Mr. King enlarged on the same distinction. He supposed the Legislatures wd. constantly choose men subservient to their own views as contrasted to the general interest; and that they might even devise modes of election that wd. be subversive of the end in view. He remarked several instances in which the views of a State might be at variance with those of the Gen.l Gov.t: and mentioned particularly a competition between the National & State debts, for the most certain & productive funds.

Gen.l Pinkney was for making the State Gov.ts a part of the General System. If they were to be abolished, or lose their agency, S. Carolina & other States would have but a small share of the benefits of Gov.t

On the question for Gen.l Pinkney motion to substitute election of the 1.st branch in such mode as the Legislatures should appoint, in stead of its being elected by the people"

Mass.ts no. Con.t ay. N. Y. no. N. J. ay. Pa. no. Del. ay. Md. div.d Va. no. N. C. no. S. C. ay. Geo. no.

General Pinkney then moved that the 1.st branch be elected *by the people* in such mode as the Legislatures should direct; but waived it on its being hinted that such a provision might be more properly tried in the detail of the plan.

On the question for ye. election of the 1.st branch by the *people*"

Mass^{ts} ay. Con^{t} ay. N. Y. ay. N. J. no. P^{a} ay. Del. ay. M^{d} div^{d} V^{a} ay. N. C. ay. S. C. ay. Geo. ay.

Election of the 1st branch "for the term of three years," considered

Mr Randolph moved to strike out, "three years" and insert "two years"—he was sensible that annual elections were a source of great mischiefs in the States, yet it was the want of such checks agst the popular intemperence as were now proposed, that rendered them so mischievous. He would have preferred annual to biennial, but for the extent of the U. S. and the inconveniency which would result from them to the representatives of the extreme parts of the Empire. The people were attached to frequency of elections. All the Constitutions of the States except that of S. Carolina, had established annual elections.

Mr Dickinson. The idea of annual elections was borrowed from the antient Usage of England, a country much less extensive than ours. He supposed biennial would be inconvenient. He preferred triennial, and in order to prevent the inconveniency of an entire change of the whole number at the same moment, suggested a rotation, by an annual election of one third.

Mr Elseworth was opposed to three years, supposing that even one year was preferable to two years. The people were fond of frequent elections and might be safely indulged in one branch of the Legislature. He moved for 1 year.

Mr Strong[1] seconded & supported the motion.

Mr Wilson being for making the 1st branch an effectual representation of the people at large, preferred an annual election of it. This frequency was most familiar & pleasing to the people. It would not be more inconvenient to them, than triennial elections, as the people in all the States have annual meetings with which the election of the National representatives might be made to co-incide. He did not conceive that it would be necessary for the Natl Leigsl: to sit constantly; perhaps not half—perhaps not one fourth of the year.

Mr Madison was persuaded that annual elections would be extremely inconvenient and apprehensive that biennial would be too much so: he did not mean inconvenient to the electors; but to the representatives. They would have to travel seven or eight hundred miles from the distant parts of the Union; and would probably not be allowed even a reimbursement of their expences. Besides, none of those who wished to be re-elected would remain at the seat of Governmt; confiding that their absence would not affect them. The members of Congs had done this with few instances of disappointment. But as the choice was here to be made by the people themselves who would be much less complaisant to individuals, and much more susceptible of impres-

[1] "Mr Strong is a Lawyer of some eminence,—he has received a liberal education, and has good connections to recommend him. As a speaker he is feeble, and without confidence. This Gentn is about thirty five years of age, and greatly in the esteem of his Colleagues."—Pierce's Notes, *Amer. Hist. Rev.* iii., 326.

sions from the presence of a Rival candidate, it must be supposed that the members from the most distant States would travel backwards & forwards at least as often as the elections should be repeated. Much was to be said also on the time requisite for new Members who would always form a large proportion, to acquire that knowledge of the affairs of the States in general without which their trust could not be usefully discharged.

Mr Sherman preferred annual elections, but would be content with biennial. He thought the Representatives ought to return home and mix with the people. By remaining at the seat of Govt they would acquire the habits of the place which might differ from those of their Constituents.

Col. Mason observed that the States being differently situated such a rule ought to be formed as would put them as nearly as possible on a level. If elections were annual the middle States would have a great advantage over the extreme ones. He wished them to be biennial; and the rather as in that case they would coincide with the periodical elections of S. Carolina as well of the other States.

Col. Hamilton urged the necessity of 3 years. there ought to be neither too much nor too little dependence, on the popular sentiments. The checks in the other branches of the Governt would be but feeble, and would need every auxiliary principle that could be interwoven. The British House of Commons were elected septennially, yet the democratic spirit of ye Constitution had not ceased. Frequency of

elections tended to make the people listless to them; and to facilitate the success of little cabals. This evil was complained of in all the States. In Virg.ª it had been lately found necessary to force the attendance & voting of the people by severe regulations.

On the question for striking out "three years"

Mass.ts ay. Con.t ay. N. Y. no. N. J. div.d P.ª ay. Del. no. M.d no. V.ª ay. N. C. ay. S. C. ay. Geo. ay.

The motion for "two years" was then inserted nem. con.

Adj.d

FRIDAY JUNE 22. IN CONVENTION

The clause in Resol. 3 "to receive fixed stipends to be paid out of the Nation.l Treasury" considered.

M.r Elseworth, moved to substitute payment by the States out of their own Treasurys: observing that the manners of different States were very different in the stile of living and in the profits accruing from the exercise of like talents. What would be deemed therefore a reasonable compensation in some States, in others would be very unpopular, and might impede the system of which it made a part.

M.r Williamson favored the idea. He reminded the House of the prospect of new States to the Westward. They would be too poor—would pay little into the common Treasury—and would have a different interest from the old States. He did not think therefore that the latter ought to pay the

expences of men who would be employed in thwarting their measures & interests.

Mr. Ghorum[1] wished not to refer the matter to the State Legislatures who were always paring down salaries in such a manner as to keep out of offices men most capable of executing the functions of them. He thought also it would be wrong to fix the compensations by the constitution, because we could not venture to make it as liberal as it ought to be without exciting an enmity agst. the whole plan. Let the Natl. Legisl: provide for their own wages, from time to time; as the State Legislatures do. He had not seen this part of their power abused, nor did he apprehend an abuse of it.

Mr. Randolph said he feared we were going too far, in consulting popular prejudices. Whatever respect might be due to them, in lesser matters, or in cases where they formed the permanent character of the people, he thought it neither incumbent on nor honorable for the Convention, to sacrifice right & justice to that consideration. If the States were to pay the members of the Natl. Legislature, a dependence would be created that would vitiate the

[1] "M. Gorham is a merchant in Boston, high in reputation, and much in the esteem of his country-men. He is a man of very good sense, but not much improved in his education. He is eloquent and easy in public debate, but has nothing fashionable or elegant in his style;—all he aims at is to convince, and where he fails it never is from his auditory not understanding him, for no man is more perspicuous and full. He has been President of Congress, and three years a Member of that Body. Mr. Gorham is about 46 years of age, rather lusty, and has an agreeable and pleasing manner."—Pierce's Notes, *Am. Hist. Rev.*, iii., 325.

whole System. The whole nation has an interest in the attendance & services of the members. The Nation^{l} Treasury therefore is the proper fund for supporting them.

Mr King, urged the danger of creating a dependence on the States by leav^{g} to them the payment of the members of the Nat^{l} Legislature. He supposed it w^{d} be best to be explicit as to the compensation to be allowed. A reserve on that point, or a reference to the Nat^{l} Legislature of the quantum, would excite greater opposition than any sum that would be actually necessary or proper.

Mr Sherman contended for referring both the quantum and the payment of it to the State Legislatures.

Mr Wilson was agst *fixing* the compensation as circumstances would change and call for a change of the amount. He thought it of great moment that the members of the Nat^{l} Gov^{t} should be left as independent as possible of the State Gov^{ts} in all respects.

Mr Madison concurred in the necessity of preserving the compensations for the Nat^{l} Gov^{t} independent on the State Gov^{ts} but at the same time approved of *fixing* them by the Constitution, which might be done by taking a standard which w^{d} not vary with circumstances. He disliked particularly the policy suggested by Mr Wiliamson of leaving the members from the poor States beyond the Mountains, to the precarious & parsimonious support of their constituents. If the Western States hereafter arising should be admitted into the Union, they ought to be

considered as equals & as brethren. If their representatives were to be associated in the Common Councils, it was of common concern that such provisions should be made as would invite the most capable and respectable characters into the service.

Mr Hamilton apprehended inconveniency from *fixing* the wages. He was strenuous agst making the National Council dependent on the Legislative rewards of the States. Those who pay are the masters of those who are paid. Payment by the States would be unequal as the distant States would have to pay for the same term of attendance and more days in travelling to & from the seat of the Govt He expatiated emphatically on the difference between the feelings & views of the *people*—& the *Governments* of the States arising from the personal interest & official inducements which must render the latter unfriendly to the Genl Govt

Mr Wilson moved that the Salaries of the 1st branch "*be ascertained by the National Legislature,*" and be paid out of the Natl Treasury.

Mr Madison, thought the members of the Legisl too much interested to ascertain their own compensation. It wd be indecent to put their hands into the public purse for the sake of their own pockets.

On this question Mass. no. Contt no. N. Y. divd N. J. ay. Pa ay. Del. no. Md no. Va no. N. C. no. S. C. no. Geo. divd

On the question for striking out "Natl Treasury" as moved by Mr Elseworth

Mr Hamilton renewed his opposition to it. He

pressed the distinction between the State Gov^{ts} & the people. The former w^{d} be the rivals of the Genl Gov^{t} The State legislatures ought not therefore to be the paymasters of the latter.

Mr Elseworth. If we are jealous of the State Gov^{ts} they will be so of us. If on going home I tell them we gave the Gen: Gov^{t} such powers because we c^{d} not trust you. Will they adopt it, and with^{t} y^{r} approbation it is a nullity.[1]

Mass^{ts} ay. Con^{t} ay. N. Y. div^{d} N. J. no. Pen^{a} no. Del. no. M^{d} no. V^{a} no. N. C. ay. S. C. ay. Geo. div^{d}.[2]

On a question for substituting "adequate compensation" in place of "fixt stipends" it was agreed to nem. con. the friends of the latter being willing that the practicability of *fixing* the compensation should be considered hereafter in forming the details.

It was then moved by Mr Butler that a question be taken on both points jointly; to wit "adequate compensation to be paid out of the Nat^{l} Treasury." It was objected to as out of order, the parts having been separately decided on. The Presid^{t} refer^{d} the question of order to the House, and it was deter-

[1] According to Yates, Wilson followed Ellsworth:

"Mr. Wilson. I am not for submitting the national government to the approbation of the state legislatures. I know that they and the state officers will oppose it. I am for carrying it to the people of each state."—Yates, *Secret Proceedings*, etc., 153.

[2] (It appeared that Mass^{ts} concurred, not because they thought the State Treas^{y} ought to be substituted; but because they thought nothing should be said on the subject, in which case it w^{d} silently devolve on the Nat^{l} Treasury to support the National Legislature.)—Madison's Note.

mined to be in order. Con. N. J. Del. Md. N. C. S. C.—ay—N. Y. Pa. Va. Geo. no—Mass. divided. The question on the sentence was then postponed by S. Carolina in right of the State.

Col. Mason moved to insert "twenty-five years of age as a qualification for the members of the 1st branch." He thought it absurd that a man today should not be permitted by the law to make a bargain for himself, and tomorrow should be authorized to manage the affairs of a great nation. It was more extraordinary as every man carried with him in his own experience a scale for measuring the deficiency of young politicians; since he would if interrogated be obliged to declare that his political opinions at the age of 21. were too crude & erroneous to merit an influence on public measures. It had been said that Congs. had proved a good school for our young men. It might be so for any thing he knew but if it were, he chose that they should bear the expence of their own education.

Mr. Wilson was agst. abridging the rights of election in any shape. It was the same thing whether this were done by disqualifying the objects of choice, or the persons chusing. The motion tended to damp the efforts of genius, and of laudable ambition. There was no more reason for incapacitating *youth* than *age*, where the requisite qualifications were found. Many instances might be mentioned of signal services rendered in high stations to the public before the age of 25: The present Mr. Pitt and Lord Bolingbroke were striking instances.

On the question for inserting "25 years of age"

Mass.ts no. Con.t ay. N. Y. div.d N. J. ay. P.a no. Del. ay. M.d ay. V.a ay. N. C. ay. S. C. ay. Geo. no.

M.r Ghorum moved to strike out the last member of the 3 Resol: concerning ineligibility of members of the 1.st branch to office during the term of their membership & for one year after. He considered it as unnecessary & injurious. It was true abuses had been displayed in G. B. but no one c.d say how far they might have contributed to preserve the due influence of the Gov.t nor what might have ensued in case the contrary theory had been tried.

M.r Butler opposed it. This precaution ag.st intrigue was necessary. He appealed to the example of G. B. where men got into Parl.t that they might get offices for themselves or their friends. This was the source of the corruption that ruined their Gov.t

M.r King, thought we were refining too much. Such a restriction on the members would discourage merit. It would also give a pretext to the Executive for bad appointments, as he might always plead this as a bar to the choice he wished to have made.

M.r Wilson was ag.st fettering elections, and discouraging merit. He suggested also the fatal consequence in time of war, of rendering perhaps the best Commanders ineligible; appealing to our situation during the late war, and indirectly leading to a recollection of the appointment of the Comander in Chief out of Congress.[1]

[1] According to Yates, Madison followed Wilson:

"Mr. Madison. Some gentlemen give too much weight and others

Col. Mason was for shutting the door at all events ag^st^ corruption. He enlarged on the venality and abuses in this particular in G. Britain: and alluded to the multiplicity of foreign Embassies by Cong^s^ The disqualification he regarded as a corner stone in the fabric.

Col. Hamilton, there are inconveniences on both sides. We must take man as we find him, and if we

too little to this subject. If you have no exclusive clause, there may be danger of creating offices or augmenting the stipends of those already created, in order to gratify some members if they were not excluded. Such an instance has fallen within my own observation. I am therefore of opinion, that no office ought to be open to a member, which may be created or augmented while he is in the legislature."—Yates, *Secret Proceedings*, etc., 155. Yates gives the rest of the debate as follows:

"Mr. Mason. It seems as if it was taken for granted, that all offices will be filled by the executive, while I think many will remain in the gift of the legislature. In either case, it is necessary to shut the door against corruption. If otherwise, they may make or multiply offices, in order to fill them. Are gentlemen in earnest when they suppose that this exclusion will prevent the first characters from coming forward? Are we not struck at seeing the luxury and venality which has already crept in among us? If not checked we shall have ambassadors to every petty state in Europe—the little republic of *St. Marino* not excepted. We must in the present system remove the temptation. I admire many parts of the British constitution and government, but I detest their corruption.—Why has the power of the crown so remarkably increased the last century? A stranger, by reading their laws, would suppose it considerably diminished; and yet, by the sole power of appointing the increased officers of government, corruption pervades every town and village in the kingdom. If such a restriction should abridge the right of election, it is still necessary, as it will prevent the people from ruining themselves; and will not the same causes here produce the same effects? I consider this clause as the corner-stone on which our liberties depend—and if we strike it out we are erecting a fabric for our destruction.

"Mr. Gorham. The corruption of the English government cannot be applied to America. This evil exists there in the venality of their

expect him to serve the public must interest his passions in doing so. A reliance on pure patriotism had been the source of many of our errors. He thought the remark of Mr Ghorum a just one. It was impossible to say what wd be the effect in G. B. of such a reform as had been urged. It was known that one of the ablest politicians (Mr Hume) had pronounced all that influence on the side of the crown, which

boroughs; but even this corruption has its advantage, as it gives stability to their government. We do not know what the effect would be if members of parliament were excluded from offices. The great bulwark of our liberty is the frequency of elections, and the great danger is the septennial parliaments.

"Mr. Hamilton. In all general questions which become the subjects of discussion, there are always some truths mixed with falsehoods. I confess there is danger where men are capable of holding two offices. Take mankind in general, they are vicious—their passions may be operated upon. We have been taught to reprobate the danger of influence in the British government, without duly reflecting how far it was necessary to support a good government. We have taken up many ideas on trust, and at last, pleased with their own opinions, establish them as undoubted truths. Hume's opinion of the British constitution confirms the remark, that there is always a body of firm patriots, who often shake a corrupt administration. Take mankind as they are, and what are they governed by? Their passions. There may be in every government a few choice spirits, who may act from more worthy motives. One great error is that we suppose mankind more honest than they are. Our prevailing passions are ambition and interest; and it will ever be the duty of a wise government to avail itself of those passions, in order to make them subservient to the public good—for these ever induce us to action. Perhaps a few men in a state, may, from patriotic motives, or to display their talents, or to reap the advantage of public applause, step forward; but if we adopt the clause, we destroy the motive. I am therefore against all exclusions and refinements, except only in this case; that when a member takes his seat, he should vacate every other office. It is difficult to put any exclusive regulation into effect. We must in some degree submit to the inconvenience."—Yates, *Secret Proceedings*, etc., 155, 156.

went under the name of corruption, an essential part of the weight which maintained the equilibrium of the Constitution.

On Mr. Ghorum's Motion for striking out "ineligibility,"

Masts. ay. Cont. no. N. Y. divd. N. J. ay. Pa. divd. Del. divd. Mard. no. Va. no. N. C. ay. S. C. no. Ga. ay. Adjd.

SATURDAY JUNE 23. IN CONVENTION

The 3d. Resol: resumed.

On Question yesterday postponed by S. Carol: for agreeing to the whole sentence "for allowing an adequate compensation to be paid out of the *Treasury of the U. States*"

Masts. ay. Cont. no. N. Y. no. N. J. ay. Pena. ay. Del. no. Md. ay. Va. ay. N. C. no. S. C. no. Geo. divided. So the question was lost, & the sentence not inserted:

Genl. Pinkney moves to strike out the ineligibility of members of the 1st. branch to offices established "by a particular State." He argued from the inconveniency to which such a restriction would expose both the members of the 1st. branch, and the States wishing for their services; & from the smallness of the object to be attained by the restriction.

It wd. seem from the ideas of some that we are erecting a Kingdom to be divided agst. itself,[1] he disapproved such a fetter on the Legislature.

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[1] According to Yates Wilson followed Pinckney:

"Mr. Wilson. I perceive that some gentlemen are of opinion to

Mr Sherman seconds the motion. It wd seem that we are erecting a Kingdom at war with itself. The Legislature ought not to [be] fettered in such a case. On the question

Massts no. Contt ay. N. Y. ay. N. J. ay. Pa no. Md divd Del. no. Md ay. Va ay. N. C. ay. S. C. ay. Geo. ay.

Mr Madison renewed his motion yesterday made & waved to render the members of the 1st branch "ineligible during their term of service, & for one year after—to such offices only as should be established, or the emoluments thereof augmented, by the Legislature of the U. States during the time of their being members." He supposed that the unnecessary creation of offices, and increase of salaries, were the evils most experienced, & that if the door was shut agst them: it might properly be left open for the appointt of members to other offices as an encouragemt to the Legislative service.

Mr Alex: Martin[1] seconded the Motion.

Mr Butler. The amendt does not go far eno. & wd be easily evaded

Mr Rutlidge, was for preserving the Legislature as pure as possible, by shutting the door against

give a bias in favor of state governments. This question ought to stand on the same footing."—Yates, *Secret Proceedings*, etc., 157.

[1] "Mr. Martin was lately Governor of North Carolina, which office he filled with credit. He is a man of sense, and undoubtedly is a good politician, but he is not formed to shine in public debate, being no speaker. Mr. Martin was once a Colonel in the American Army, but proved unfit for the field. He is about 40 years of age."—Pierce's Notes, *Am. Hist. Rev.*, iii., 332.

appointments of its own members to offices, which was one source of its corruption.

Mr Mason.[1] The motion of my colleague is but a partial remedy for the evil. He appealed to him as a witness of the shameful partiality of the Legislature of Virginia to its own members. He enlarged on the

[1] Yates gives Mason's speech more fully and a speech by Madison omitted here:

"Mr. Mason. I differ from my colleague in his proposed amendment. Let me state the practice in the state where we came from. There, all officers are appointed by the legislature. Need I add, that many of their appointments are most shameful. Nor will the check proposed by this amendment be sufficient. It will soon cease to be any check at all. It is asserted that it will be very difficult to find men sufficiently qualified as legislators without the inducement of emolument. I do believe that men of genius will be deterred unless possessed of great virtues. We may well dispense with the first characters when destitute of virtue—I should wish them never to come forward—But if we do not provide against corruption, our government will soon be at an end; nor would I wish to put a man of virtue in the way of temptation. Evasions and caballing would evade the amendment. Nor would the danger be less, if the executive has the appointment of officers. The first three or four years we might go on well enough; but what would be the case afterwards? I will add, that such a government ought to be refused by the people—and it will be refused.

"Mr. Madison. My wish is that the national legislature be as uncorrupt as possible. I believe all public bodies are inclined, from various motives, to support its members; but it is not always done from the base motives of venality. Friendship, and a knowledge of the abilities of those with whom they associate, may produce it. If you bar the door against such attachments, you deprive the government of its greatest strength and support. Can you always rely on the patriotism of the members? If this be the only inducement, you will find a great indifferency in filling your legislative body. If we expect to call forth useful characters, we must hold out allurements; nor can any great inconveniency arise from such inducements. The legislative body must be the road to public honor; and the advantage will be greater to adopt my motion, than any possible inconvenience."
—Yates, *Secret Proceedings*, etc., 158.

abuses & corruption in the British Parliament, connected with the appointment of its members. He c^d^ not suppose that a sufficient number of Citizens could not be found who would be ready, without the inducement of eligibility to offices, to undertake the Legislative service. Genius & virtue it may be said, ought to be encouraged. Genius, for aught he knew, might, but that virtue should be encouraged by such a species of venality, was an idea, that at least had the merit of being new.

Mr King remarked that we were refining too much in this business; and that the idea of preventing intrigue and solicitation of offices was chimerical. You say that no member shall himself be eligible to any office. Will this restrain him from availing himself of the same means which would gain appointments for himself, to gain them for his son, his brother, or any other object of his partiality. We were losing therefore the advantages on one side, without avoiding the evils on the other.

Mr Wilson supported the motion. The proper cure he said for corruption in the Legislature was to take from it the power of appointing to offices. One branch of corruption would indeed remain, that of creating unnecessary offices, or granting unnecessary salaries, and for that the amendment would be a proper remedy. He animadverted on the impropriety of stigmatizing with the name of venality the laudable ambition of rising into the honorable offices of the Government; an ambition most likely to be felt in the early & most incorrupt period of life, &

which all wise & free Gov^{ts} had deemed it sound policy, to cherish, not to check. The members of the Legislature have perhaps the hardest & least profitable task of any who engage in the service of the state. Ought this merit to be made a disqualification?

Mr Sherman, observed that the motion did not go far enough. It might be evaded by the creation of a new office, the translation to it of a person from another office, and the appointment of a member of the Legislature to the latter. A new Embassy might be established to a new Court, & an ambassador taken from another, in order to *create* a vacancy for a favorite member. He admitted that inconveniences lay on both sides. He hoped there w^{d} be sufficient inducements to the public service without resorting to the prospect of desirable offices, and on the whole was rather agst the motion of Mr Madison.

Mr Gerry[1] thought there was great weight in the objection of Mr Sherman. He added as another objection agst admitting the eligibility of members in any case that it would produce intrigues of ambitious men for displacing proper officers, in order

[1] Yates gives Gerry's remarks:

"This amendment is of great weight, and its consequences ought to be well considered. At the beginning of the war, we possessed more than Roman virtue. It appears to me it is now the reverse. We have more land and stock-jobbers than any place on earth. It appears to me that we have constantly endeavored to keep distinct the three great branches of government; but if we agree to this motion, it must be destroyed by admitting the legislators to share in the executive, or to be too much influenced by the executive, in looking up to them for offices."—Yates, *Secret Proceedings*, etc., 160.

to create vacancies for themselves. In answer to Mr King he observed that although members, if disqualified themselves might still intrigue & cabal for their sons, brothers &c, yet as their own interests would be dearer to them, than those of their nearest connections, it might be expected they would go greater lengths to promote it.

Mr Madison had been led to this motion as a middle ground between an eligibility in all cases, and an absolute disqualification. He admitted the probable abuses of an eligibility of the members, to offices particularly within the gift of the Legislature He had witnessed the partiality of such bodies to their own members, as had been remarked of the Virginia Assembly by his colleague (Col. Mason). He appealed however to him, in turn to vouch another fact not less notorious in Virginia, that the backwardness of the best citizens to engage in the Legislative service gave but too great success to unfit characters. The question was not to be viewed on one side only. The advantages & disadvantages on both ought to be fairly compared. The objects to be aimed at were to fill all offices with the fittest characters, & to draw the wisest & most worthy citizens into the Legislative service. If on one hand, public bodies were partial to their own members; on the other they were as apt to be misled by taking characters on report, or the authority of patrons and dependents. All who had been concerned in the appointment of strangers on those recommendations must be sensible of this truth. Nor wd the partialities of such

Bodies be obviated by disqualifying their own members. Candidates for office would hover round the seat of Gov.t or be found among the residents there, and practise all the means of courting the favor of the members. A great proportion of the appointments made by the States were evidently brought about in this way. In the General Gov.t the evil must be still greater, the characters of distant states, being much less known throughout the U. States than those of the distant parts of the same State. The elections by Congress had generally turned on men living at the seat of the fed.l Gov.t or in its neighbourhood.—As to the next object, the impulse to the Legislative service, was evinced by experience to be in general too feeble with those best qualified for it. This inconveniency w.d also be more felt in the Nat.l Gov.t than in the State Gov.ts as the Sacrifices req.d from the distant members, w.d be much greater, and the pecuniary provisions, probably, more disproportionate. It w.d therefore be impolitic to add fresh objections to the Legislative service by an absolute disqualification of its members. The point in question was whether this would be an objection with the most capable citizens. Arguing from experience he concluded that it would. The Legislature of Virg.a would probably have been without many of its best members, if in that situation, they had been ineligible to Cong.s to the Gov.t & other honorable offices of the State.

M.r Butler thought Characters fit for office w.d never be unknown.

Col. Mason. If the members of the Legislature are disqualified, still the honors of the State will induce those who aspire to them to enter that service, as the field in which they can best display & improve their talents, & lay the train for their subsequent advancement.

Mr Jenifer remarked that in Maryland, the Senators chosen for five years, cd hold no other office & that this circumstance gained them the greatest confidence of the people.

On the question for agreeing to the motion of Mr Madison,

Masts div.d Ct ay. N. Y. no. N. J. ay. Pa no. Del. no. Md no. Va no. N. C. no. S. C. no. Geo. no.

Mr Sherman mov.d to insert the words "and incapable of holding" after the words "eligible to offices" wch was agreed to without opposition.

The word "established" & the words "Natl Gov.t" were struck out of the Resolution 3d

Mr Spaight called for a division of the question, in consequence of which it was so put, as that it turned in the first member of it, "on the ineligibility of members *during the term for which they were elected*"—whereon the States were,

Masts div.d Ct ay. N. Y. ay. N. J. ay. Pa no. Del. ay. Md ay. Va ay. N.C. ay. S.C. ay. Geo. no.

On the 2d member of the sentence extending ineligibility of members to one year after the term for which they were elected Col. Mason thought this essential to guard agst evasions by resignations, and

stipulations for office to be filled at the expiration of the legislative term. Mr Gerry, had known such a case. Mr Hamilton. Evasions cd not be prevented—as by proxies—by friends holding for a year, & then opening the way &c. Mr Rutlidge admitted the possibility of evasions, but was for contracting them as possible. Mass. no. Ct no. N. Y. ay. N. J. no. Pa div.d Del. ay. Mard ay. Va no. N. C. no. S. C. ay. Geo. no

Adjd

MONDAY, JUNE 25. IN CONVENTION.

Resolution 4. being taken up.

Mr Pinkney spoke as follows—[1] The efficacy of the System will depend on this article. In order to form a right judgmt in the case, it will be proper to examine the situation of this Country more accurately than it has yet been done. The people of the U. States are perhaps the most singular of any we are acquainted with. Among them there are fewer distinctions of fortune & less of rank, than among the inhabitants of any other nation. Every freeman has a right to the same protection & security; and a very moderate share of property entitles them to the possession of all the honors and privileges the Public can bestow: hence arises a greater equality, than is to be found among the people of any other Country, and an equality which is

[1] Pinckney furnished Madison with a copy of this speech which he transcribed, but apparently not with the whole of it, as Madison's note at the end indicates. The original Pinckney draft is among the Madison papers, and shows Madison's copying to have been accurate.

more likely to continue—I say this equality is likely to continue, because in a new Country, possessing immense tracts of uncultivated lands, where every temptation is offered to emigration & where industry must be rewarded with competency, there will be few poor, and few dependent—Every member of the Society almost, will enjoy an equal power of arriving at the supreme offices & consequently of directing the strength & sentiments of the whole Community. None will be excluded by birth, & few by fortune, from voting for proper persons to fill the offices of Government — the whole community will enjoy in the fullest sense that kind of political liberty which consists in the power the members of the State reserve to themselves, of arriving at the Public offices, or at least, of having votes in the nomination of those who fill them.

If this State of things is true & the prospect of its continuing probable, it is perhaps not politic to endeavour too close an imitation of a Government calculated for a people whose situation is, & whose views ought to be extremely different

Much has been said of the Constitution of G. Britain. I will confess that I believe it to be the best Constitution in existence; but at the same time I am confident it is one that will not or cannot be introduced into this Country, for many centuries.— If it were proper to go here into a historical dissertation on the British Constitution, it might easily be shewn that the peculiar excellence, the distinguishing feature of that Governm^t cannot possibly be in-

troduced into our System—that its balance between the Crown & the people cannot be made a part of our Constitution,—that we neither have nor can have the members to compose it, nor the rights, privileges & properties of so distinct a class of Citizens to guard,—that the materials for forming this balance or check do not exist, nor is there a necessity for having so permanent a part of our Legislative, until the Executive power is so constituted as to have something fixed & dangerous in its principle—By this I mean a sole, hereditary, though limited Executive.

That we cannot have a proper body for forming a Legislative balance between the inordinate power of the Executive and the people, is evident from a review of the accidents & circumstances which gave rise to the peerage of Great Britain—I believe it is well ascertained that the parts which compose the British Constitution arose immediately from the forests of Germany; but the antiquity of the establishment of Nobility is by no means clearly defined. Some authors are of opinion that the dignity denoted by the titles of dux et comes, was derived from the old Roman to the German Empire; while others are of the opinion that they existed among the Germans long before the Romans were acquainted with them. The institution however of Nobility is immemorial among the Nations who may properly be termed the ancestors of Britain.—At the time they were summoned in England to become a part of the National Council, the circumstances which contributed to make them a Constituent part of that

constitution, must be well known to all gentlemen who have had industry & curiosity enough to investigate the subject—The Nobles with their possessions & dependents composed a body permanent in their nature and formidable in point of power. They had a distinct interest both from the King and the people; an interest which could only be represented by themselves, and the guardianship could not be safely intrusted to others.—At the time they were originally called to form a part of the National Council, necessity perhaps as much as other cause, induced the Monarch to look up to them. It was necessary to demand the aid of his subjects in personal & pecuniary services. The power and possessions of the Nobility would not permit taxation from any Assembly of which they were not a part: & the blending the Deputies of the Commons with them, & thus forming what they called their parlerment was perhaps as much the effect of chance as of any thing else. The Commons were at that time compleatly subordinate to the nobles, whose consequence & influence seem to have been the only reasons for their superiority; a superiority so degrading to the Commons that in the first summons we find the peers are called upon to consult the commons to consent. From this time the peers have composed a part of the British Legislature, and notwithstanding their power and influence have diminished & those of the Commons have increased, yet still they have always formed an excellent balance ag^st^ either the encroachments of the Crown or the people.

I have said that such a body cannot exist in this Country for ages, and that untill the situation of our people is exceedingly changed no necessity will exist for so permanent a part of the Legislature. To illustrate this I have remarked that the people of the United States are more equal in their circumstances than the people of any other Country—that they have very few rich men among them,—by rich men I mean those whose riches may have a dangerous influence, or such as are esteemed rich in Europe —perhaps there are not one hundred such on the Continent; that it is not probable this number will be greatly increased; that the genius of the people their mediocrity of situation & the prospects which are afforded their industry in a Country which must be a new one for centuries are unfavorable to the rapid distinction of ranks. The destruction of the right of primogeniture & the equal division of the property of Intestates will also have an effect to preserve this mediocrity; for laws invariably affect the manners of a people. On the other hand that vast extent of unpeopled territory which opens to the frugal & industrious a sure road to competency & independence will effectually prevent for a considerable time the increase of the poor or discontented, and be the means of preserving that equality of condition which so eminently distinguishes us.

If equality is as I contend the leading feature of the U. States, where then are the riches & wealth whose representation & protection is the peculiar province of this Permanent body. Are they in the

hands of the few who may be called rich; in the possession of less than a hundred citizens? Certainly not. They are in the great body of the people, among whom there are no men of wealth, and very few of real poverty.—Is it probable that a change will be created, and that a new order of men will arise? If under the British Government, for a century no such change was probable, I think it may be fairly concluded it will not take place while even the semblance of Republicanism remains.—How is this change to be effected? Where are the sources from whence it is to flow? From the landed interest? No. That is too unproductive & too much divided in most of the States. From the Monied interest? If such exists at present, little is to be apprehended from that source. Is it to spring from commerce? I believe it would be the first instance in which a nobility sprang from merchants. Besides, Sir, I apprehend that on this point the policy of the U. States has been much mistaken. We have unwisely considered ourselves as the inhabitants of an old instead of a new country. We have adopted the maxims of a State full of people & manufactures & established in credit. We have deserted our true interest, and instead of applying closely to those improvements in domestic policy which would have ensured the future importance of our commerce, we have rashly & prematurely engaged in schemes as extensive as they are imprudent. This however is an error which daily corrects itself & I have no doubt that a few more severe trials will convince us, that very different

commercial principles ought to govern the conduct of these States.

The people of this Country are not only very different from the inhabitants of any State we are acquainted with in the modern world; but I assert that their situation is distinct from either the people of Greece or Rome, or of any State we are acquainted with among the antients.—Can the orders introduced by the institution of Solon, can they be found in the United States? Can the military habits & manners of Sparta be resembled to our habits & manners? Are the distinction of Patrician & Plebeian known among us? Can the Helvetic or Belgic confederacies, or can the unwieldy, unmeaning body called the Germanic Empire, can they be said to possess either the same or a situation like ours? I apprehend not.—They are perfectly different, in their distinctions of rank, their Constitutions, their manners & their policy.

Our true situation appears to me to be this,—a new extensive Country containing within itself the materials for forming a Government capable of extending to its Citizens all the blessings of Civil & religious liberty—capable of making them happy at home. This is the great end of Republican Establishments. We mistake the object of our Government, if we hope or wish that it is to make us respectable abroad. Conquest or superiority among other powers is not or ought not ever to be the object of republican Systems. If they are sufficiently active & energetic to rescue us from contempt &

preserve our domestic happiness & security, it is all we can expect from them,—it is more than almost any other Government ensures to its citizens.

I believe this observation will be found generally true:—that no two people are so exactly alike in their situation or circumstances as to admit the exercise of the same Government with equal benefit; that a system must be suited to the habits & genius of the People it is to govern, and must grow out of them.

The people of the U. S. may be divided into three classes—*Professional men* who must from their particular pursuits always have a considerable weight in the Government while it remains popular—*Commercial men*, who may or may not have weight as a wise or injudicious commercial policy is pursued.—If that commercial policy is pursued which I conceive to be the true one, the merchants of this Country will not or ought not for a considerable time to have much weight in the political scale.—The third is the *landed interest*, the owners and cultivators of the soil, who are and ought ever to be the governing spring in the system.—These three classes, however distinct in their pursuits are individually equal in the political scale, and may be easily proved to have but one interest. The dependence of each on the other is mutual. The merchant depends on the planter. Both must in private as well as public affairs be connected with the professional men; who in their turn must in some measure depend on them. Hence it is clear

from this manifest connection, & the equality which I before stated exists, & must for the reasons then assign, continue, that after all there is one, but one great & equal body of Citizens composing the inhabitants of this Country among whom there are no distinctions of rank, and very few or none of fortune.

For a people thus circumstanced are we then to form a Government & the question is what sort of Government is best suited to them.

Will it be the British Gov^t? No. Why? Because G. Britain contains three orders of people distinct in their situation, their possessions & their principles.—These orders combined form the great body of the Nation. And as in national expences the wealth of the whole community must contribute, so ought each component part to be properly & duly represented.—No other combination of power could form this due representation, but the one that exists. —Neither the peers or the people could represent the royalty, nor could the Royalty & the people form a proper representation for the Peers.—Each therefore must of necessity be represented by itself, or the sign of itself; and this accidental mixture has certainly formed a Government admirably well balanced.

But the U. States contain but one order that can be assimilated to the British Nation,—this is the order of Commons. They will not surely then attempt to form a Government consisting of three branches, two of which shall have nothing to

represent. They will not have an Executive & Senate (hereditary) because the King & Lords of England are so. The same reasons do not exist and therefore the same provisions are not necessary.

We must as has been observed suit our Governm.t to the people it is to direct. These are I believe as active, intelligent & susceptible of good Governm.t as any people in the world. The Confusion which has produced the present relaxed State is not owing to them. It is owing to the weakness & (defects) of a Gov.t incapable of combining the various interests it is intended to unite, and destitute of energy.—All that we have to do then is to distribute the powers of Gov.t in such a manner, and for such limited periods, as while it gives a proper degree of permanency to the Magistrate, will reserve to the people, the right of election they will not or ought not frequently to part with.—I am of opinion that this may easily be done; and that with some amendments the propositions before the Committee will fully answer this end.

No position appears to me more true than this; that the General Gov.t cannot effectually exist without reserving to the States the possession of their local rights. They are the instruments upon which the Union must frequently depend for the support & execution of their powers, however immediately operating upon the people, and not upon the States.

Much has been said about the propriety of abolishing the distinction of State Governments, & having

but one general System. Suffer me for a moment to examine this question.[1]

The mode of constituting the 2d branch being under consideration.

The word "national" was struck out, and "United States" inserted.

Mr Ghorum, inclined to a compromise as to the rule of proportion. He thought there was some weight in the objections of the small States. If Va should have 16. votes & Delre with several other States together 16, those from Virga would be more likely to unite than the others, and would therefore have an undue influence. This remark was applicable not only to States, but to Counties or other districts of the same State. Accordingly the Constitution of Masts had provided that the representatives of the larger districts should not be in an exact ratio to their numbers, and experience he thought had shewn the provision to be expedient.

[1] The residue of this speech was not furnished, like the above, by Mr. Pinckney.—Madison's Note.

Yates' report of the speech is meagre. The closing paragraph, apparently the part lacking in Madison's report, is:

"While we were dependent on the crown of Great Britain, it was in contemplation to form the whole into one; but it was found impracticable. No legislature could make good laws for the whole, nor can it now be done. It would necessarily place the power in the hands of the few nearest the seat of government. State governments must therefore remain, if you mean to prevent confusion. The general negative powers will support the general government. Upon these considerations, I am led to form the second branch differently from the report. These powers are important, and the number not too large, upon the principle of proportion. I have considered the subject with great attention; and I propose this plan (reads it), and if no better plan is proposed, I will then move its adoption."—Yates, *Secret Proceedings*, etc., 163.

Mr Read. The States have heretofore been in a sort of partnership. They ought to adjust their old affairs before they open a new account. He brought into view the appropriation of the common interest in the Western lands, to the use of particular States. Let justice be done on this head; let the fund be applied fairly & equally to the discharge of the general debt, and the smaller States who had been injured; would listen then perhaps to those ideas of just representation which had been held out.

Mr Ghorum, did not see how the Convention could interpose in the case. Errors he allowed had been committed on the subject. But Congs were now using their endeavours to rectify them. The best remedy would be such a Government as would have vigor enough to do justice throughout. This was certainly the best chance that could be afforded to the smaller States.

Mr Wilson, the question is shall the members of the 2d branch be chosen by the Legislatures of the States? When he considered the amazing extent of Country—the immense population which is to fill it, the influence which the Govt we are to form will have, not only on the present generation of our people & their multiplied posterity, but on the whole Globe, he was lost in the magnitude of the object. The project of Henry the 4th & his Statesmen was but the picture in miniature of the great portrait to be exhibited. He was opposed to an election by the State Legislatures. In explaining his reasons it was

necessary to observe the twofold relation in which the people would stand, 1 as Citizens of the Gen.l Gov.t 2. as Citizens of their particular State. The Gen.l Gov.t was meant for them in the first capacity: the State Gov.ts in the second. Both Gov.ts were derived from the people—both meant for the people —both therefore ought to be regulated on the same principles. The same train of ideas which belonged to the relation of the Citizens to their State Gov.ts were applicable to their relation to the Gen.l Gov.t and in forming the latter, we ought to proceed, by abstracting as much as possible from the idea of the State Gov.ts With respect to the province & object of the Gen.l Gov.t they should be considered as having no existence. The election of the 2.d branch by the Legislatures, will introduce & cherish local interests & local prejudices. The Gen.l Gov.t is not an assemblage of States, but of individuals for certain political purposes—it is not meant for the States, but for the individuals composing them; the *individuals* therefore not the *States*, ought to be represented in it: A proportion in this representation can be preserved in the 2.d as well as in the 1.st branch; and the election can be made by electors chosen by the people for that purpose. He moved an amendment to that effect which was not seconded.

M.r Elseworth saw no reason for departing from the mode contained in the Report. Whoever chooses the member, he will be a Citizen of the State he is to represent & will feel the same spirit & act the same part whether he be appointed by the people

or the Legislature. Every State has its particular views & prejudices, which will find their way into the general Councils, through whatever channel they may flow. Wisdom was one of the characteristics which it was in contemplation to give the second branch. Would not more of it issue from the Legislatures; than from an immediate election by the people. He urged the necessity of maintaining the existence, & agency of the States. Without their co-operation it would be impossible to support a Republican Gov.t over so great an extent of Country. An army could scarcely render it practicable. The largest States are the worst Governed. Virg.a is obliged to acknowledge her incapacity to extend her Gov.t to Kentuckey. Mass.ts cannot keep the peace one hundred miles from her capitol and is now forming an army for its support. How long Pen.a may be free from a like situation cannot be foreseen. If the principles & materials of our Gov.t are not adequate to the extent of these single States; how can it be imagined that they can support a single Gov.t throughout the U. States. The only chance of supporting a Gen.l Gov.t lies in grafting it on that of the individual States.

Doc.r Johnson urged the necessity of preserving the State Gov.ts which would be at the mercy of the Gen.l Gov.t on M.r Wilson's plan.

M.r Madison thought it w.d obviate difficulty if the present resol: were postponed, & the 8.th taken up, which is to fix the right of suffrage in the 2.d branch.

Doc.r Williamson professed himself a friend to such

a system as would secure the existence of the State Gov^{ts}. The happiness of the people depended on it. He was at a loss to give his vote as to the Senate untill he knew the number of its members. In order to ascertain this, he moved to insert these words after "2^{d}. branch of the Nat^{l}. Legislature"—"who shall bear such proportion to the n^{o}. of the 1st. branch as 1 to ——." He was not seconded.

M^{r}. Mason. It has been agreed on all hands that an efficient Gov^{t}. is necessary that to render it such it ought to have the faculty of self defence, that to render its different branches effectual each of them ought to have the same power of self defence. He did not wonder that such an agreement should have prevailed in these points. He only wondered that there should be any disagreement about the necessity of allowing the State Gov^{ts}. the same self-defence. If they are to be preserved as he conceived to be essential, they certainly ought to have this power. And the only mode left of giving it to them, was by allowing them to appoint the 2^{d}. branch of the Nat^{l}. Legislature.

M^{r}. Butler observing that we were put to difficulties at every step by the uncertainty whether an equality or a ratio of representation w^{d}. prevail finally in the 2^{d}. branch, moved to postpone the 4th. Resol: & to proceed to the Resol: on that point. M^{r}. Madison seconded him

On the question

Mass^{ts}. no. Con^{t}. no. N. Y. ay. N. J. no. P^{a}. no. Del. no. M^{d}. no. V^{a}. ay. N. C. no. S. C. ay. Geo. ay.

On a question to postpone the 4 and take up the 7 Resol: ays, Mary^{d} V^{a} N. C. S. C. Geo;—Noes, Mass. C^{t} N. Y. N. J. P^{a} Del:

On the question to agree "that the members of the 2^{d} branch be chosen by the indiv^{l} Legislatures" Mass^{ts} ay. Con^{t} ay. N. Y. ay. N. J. ay. P^{a} no. Del. ay. M^{d} ay. V^{a} no. N. C. ay. S. C. ay. Geo. ay.[1]

On a question on the clause requiring the age of 30 years at least,—it was agreed to unanimously:

On a question to strike out the words, "sufficient to ensure their independency" after the word "term" it was agreed to.

That the 2^{d} branch hold their offices for a term of seven years, considered

Mr Ghorum suggests a term of "4 years," $\frac{1}{4}$ to be elected every year.

Mr Randolph, supported the idea of rotation, as favorable to the wisdom & stability of the Corps, which might possibly be always sitting, and aiding the Executive.

And moves after "7 years," to add, "to go out in fixt proportion" which was agreed to.

Mr Williamson suggests "6 years," as more convenient for Rotation than 7 years.

[1] Madison's Note:

It must be kept in view that the largest States particularly Pennsylvania & Virginia always considered the choice of the 2^{d} Branch by the State Legislatures as opposed to a proportional representation to which they were attached as a fundamental principle of just Government. The smaller States who had opposite views, were reinforced by the members from the large States most anxious to secure the importance of the State Governments.

Mr Sherman seconds him.

Mr Reed proposed that they s^{d} hold their offices "during good behaviour. Mr. R. Morris seconds him.

Genl Pinkney, proposed "4 years." A longer term w^{d} fix them at the seat of Gov^{t} They w^{d} acquire an interest there, perhaps transfer their property & lose sight of the States they represent. Under these circumstances the distant States w^{d} labour under great disadvantages.[1]

Mr Sherman moved to strike out "7 years" in order to take questions on the several propositions.

On the question to strike out "seven"

Mass^{ts} ay. Con^{t} ay. N. Y. ay. N. J. ay. P^{a} no. Del. no. M^{d} div^{d} V^{a} no. N. C. ay. S. C. ay. Geo. ay.

On the question to insert "6 years", which failed 5 St^{s} being ay. 5 no, & 1 divided

Mass^{ts} no. Con^{t} ay. N. Y. no. N. J. no. P^{a} ay. Del. ay. M^{d} div^{d} V^{a} ay. N. C. ay. S. C. no. Geo. no.

On a motion to adjourn, the votes were 5 for 5 agst it & 1 divided,—Con. N. J. P^{a} Del. V^{a} ay. Mass^{ts} N. Y. N. C. S. C. Geo: no. Mary^{d} divided.

On the question for "5 years" it was lost.

[1] According to Yates, Madison followed Pinckney:

"Mr. Madison. We are proceeding in the same manner that was done when the Confederation was first formed. Its original draft was excellent, but in its progress and completion it became so insufficient as to give rise to the present Convention. By the vote already taken, will not the temper of the state legislatures transfuse itself into the Senate? Do we create a free government?"—Yates, *Secret Proceedings*, etc., 168.

Mass.ts no. Con.t ay. N. Y. no. N. J. no. P.a ay. Del. ay. M.d div.d V.a ay. N. C. ay. S. C. no. Geo. no. Adj.d

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TUESDAY, JUNE 26. IN CONVENTION

The duration of the 2.d branch under consideration.

M.r Ghorum moved to fill the blank with "six years," one third of the members to go out every second year.

M.r Wilson 2.ded the motion.

Gen.l Pinkney opposed six years in favor of four years. The States he said had different interests. Those of the Southern, and of S. Carolina in particular were different from the Northern. If the Senators should be appointed for a long term, they w.d settle in the State where they exercised their functions; and would in a little time be rather the representatives of that than of the State appoint.g them.

M.r Reed mov.d that the term be nine years. This w.d admit of a very convenient rotation, one third going out triennially. He w.d still prefer "during good behaviour," but being little supported in that idea, he was willing to take the longest term that could be obtained.

M.r Broome 2.ded the motion.

M.r Madison. In order to judge of the form to be given to this institution, it will be proper to take a view of the ends to be served by it. These were first to protect the people ag.st their rulers; secondly

to protect the people agst the transient impressions into which they themselves might be led. A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of Gov^{t} most likely to secure their happiness, would first be aware, that those charg^{d} with the public happiness might betray their trust. An obvious precaution agst this danger w^{d} be to divide the trust between different bodies of men, who might watch & check each other. In this they w^{d} be governed by the same prudence which has prevailed in organizing the subordinate departments of Gov^{t}, where all business liable to abuses is made to pass thro' separate hands, the one being a check on the other. It w^{d} next occur to such people, that they themselves were liable to temporary errors, thro' want of information as to their true interest, and that men chosen for a short term, & employed but a small portion of that in public affairs, might err from the same cause. This reflection w^{d} naturally suggest that the Gov^{t} be so constituted as that one of its branches might have an opp^{y} of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, w^{d} be that they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence agst this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose agst impetuous councils. It ought finally to occur to a people

deliberating on a Gov^{t} for themselves, that as different interests necessarily result from the liberty meant to be secured, the major interest might under sudden impulses be tempted to commit injustice on the minority. In all civilized Countries the people fall into different classes hav^{g} a real or supposed difference of interests. There will be creditors & debtors; farmers, merch^{ts} & manufacturers. There will be particularly the distinction of rich & poor. It was true as had been observ^{d} (by Mr Pinkney) we had not among us those hereditary distinctions, of rank which were a great source of the contests in the ancient Gov^{ts} as well as the modern States of Europe, nor those extremes of wealth or poverty which characterize the latter. We cannot however be regarded even at this time, as one homogeneous mass, in which every thing that affects a part will affect in the same manner the whole. In framing a system which we wish to last for ages, we sh^{d} not lose sight of the changes which ages will produce. An increase of population will of necessity increase the proportion of those who will labour under all the hardships of life, & secretly sigh for a more equal distribution of its blessings. These may in time outnumber those who are placed above the feelings of indigence. According to the equal laws of suffrage, the power will slide into the hands of the former. No agrarian attempts have yet been made in this Country, but symptoms, of a levelling spirit, as we have understood, have sufficiently appeared in certain quarters, to give notice of the future danger.

How is this danger to be guarded agst on the republican principles? How is the danger in all cases of interested coalitions to oppress the minority to be guarded agst? Among other means by the establishment of a body in the Gov^{t} sufficiently respectable for its wisdom & virtue, to aid on such emergencies, the preponderance of justice by throwing its weight into that scale. Such being the objects of the second branch in the proposed Gov^{t} he thought a considerable duration ought to be given to it. He did not conceive that the term of nine years could threaten any real danger; but in pursuing his particular ideas on the subject, he should require that the long term allowed to the 2^{d} branch should not commence till such a period of life, as would render a perpetual disqualification to be re-elected little inconvenient either in a public or private view. He observed that as it was more than probable we were now digesting a plan which in its operation w^{d} decide for ever the fate of Republican Gov^{t} we ought not only to provide every guard to liberty that its preservation c^{d} require, but be equally careful to supply the defects which our own experience had particularly pointed out.

Mr Sherman. Gov^{t} is instituted for those who live under it. It ought therefore to be so constituted as not to be dangerous to their liberties. The more permanency it has the worse if it be a bad Gov^{t} Frequent elections are necessary to preserve the good behavior of rulers. They also tend to give permanency to the Government, by preserving that good behavior, because it ensures their re-election.

In Connecticut elections have been very frequent, yet great stability & uniformity both as to persons & measures have been experienced from its original establishm.t to the present time; a period of more than a 130 years. He wished to have provision made for steadiness & wisdom in the system to be adopted; but he thought six or four years would be sufficient. He sh.d be content with either.

M.r Read wished it to be considered by the small States that it was their interest that we should become one people as much as possible; that State attachments sh.d be extinguished as much as possible; that the Senate sh.d be so constituted as to have the feelings of Citizens of the whole.

M.r Hamilton. He did not mean to enter particularly into the subject. He concurred with M.r Madison in thinking we were now to decide forever the fate of Republican Government; and that if we did not give to that form due stability and wisdom, it would be disgraced & lost among ourselves, disgraced & lost to mankind forever. He acknowledged himself not to think favorably of Republican Government; but addressed his remarks to those who did think favorably of it, in order to prevail on them to tone their Government as high as possible. He professed himself to be as zealous an advocate for liberty as any man whatever, and trusted he should be as willing a martyr to it though he differed as to the form in which it was most eligible.—He concurred also in the general observations of (M.r Madison) on the subject, which might be sup-

ported by others if it were necessary. It was certainly true that nothing like an equality of property existed; that an inequality would exist as long as liberty existed, and that it would unavoidably result from that very liberty itself. This inequality of property constituted the great & fundamental distinction in Society. When the Tribunitial power had levelled the boundary between the *patricians* & *plebeians*, what followed? The distinction between rich & poor was substituted. He meant not however to enlarge on the subject. He rose principally to remark that (Mr Sherman) seemed not to recollect that one branch of the proposed Govt was so formed, as to render it particularly the guardians of the poorer orders of Citizens; nor to have adverted to the true causes of the stability which had been exemplified in Cont Under the British system as well as the federal, many of the great powers appertaining to Govt particularly all those relating to foreign Nations were not in the hands of the Govt there. Their internal affairs also were extremely simple, owing to sundry causes many of which were peculiar to that Country. Of late the Governmt had entirely given way to the people, and had in fact suspended many of its ordinary functions in order to prevent those turbulent scenes which had appeared elsewhere. He asks Mr S. whether the State at this time dare impose & collect a tax on ye people? To these causes & not to the frequency of elections, the effect as far as it existed ought to be chiefly ascribed.

Mr Gerry, wished we could be united in our ideas concerning a permanent Gov^t All aim at the same end, but there are great differences as to the means. One circumstance He thought should be carefully attended to. There was not $\frac{1}{1000}$ part of our fellow citizens who were not ag^st every approach towards Monarchy. Will they ever agree to a plan which seems to make such an approach. The Convention ought to be extremely cautious in what they hold out to the people. Whatever plan may be proposed will be espoused with warmth by many out of respect to the quarter it proceeds from as well as from an approbation of the plan itself. And if the plan should be of such a nature as to rouse a violent opposition, it is easy to foresee that discord & confusion will ensue, and it is even possible that we may become a prey to foreign powers. He did not deny the position of Mr Madison, that the majority will generally violate justice when they have an interest in so doing: But did not think there was any such temptation in this Country. Our situation was different from that of G. Britain; and the great body of lands yet to be parcelled out & settled would very much prolong the difference. Notwithstanding the symptoms of injustice which had marked many of our public Councils, they had not proceeded so far as not to leave hopes, that there would be a sufficient sense of justice & virtue for the purpose of Gov^t He admitted the evils arising from a frequency of elections; and would agree to give the Senate a duration of four or five years. A longer term would

defeat itself. It never would be adopted by the people.

Mr Wilson did not mean to repeat what had fallen from others, but wd add an observation or two which he believed had not yet been suggested. Every nation may be regarded in two relations 1 to its own citizens. 2 to foreign nations. It is therefore not only liable to anarchy & tyranny within, but has wars to avoid & treaties to obtain from abroad. The Senate will probably be the depository of the powers concerning the latter objects. It ought therefore to be made respectable in the eyes of foreign Nations. The true reason why G. Britain has not yet listened to a commercial treaty with us has been, because she had no confidence in the stability or efficacy of our Government. 9 years with a rotation, will provide these desirable qualities; and give our Govt an advantage in this respect over Monarchy itself. In a Monarchy much must always depend on the temper of the man. In such a body, the personal character will be lost in the political. He wd add another observation. The popular objection agst appointing any public body for a long term was that it might by gradual encroachments prolong itself first into a body for life, and finally become a hereditary one. It would be a satisfactory answer to this objection that as ⅓ would go out triennially, there would be always three divisions holding their places for unequal times, and consequently acting under the influence of different views, and different impulses.—On the question for 9 years, ⅓ to go out triennially,

Mass^{ts} no. Con^{t} no. N. Y. no. N. J. no. P^{a} ay. Del. ay. M^{d} no. V^{a} ay. N. C. no. S. C. no. Geo. no.

On the question for 6 years,[1] $\frac{1}{3}$ to go out biennially

Mass^{ts} ay. Con^{t} ay. N. Y. no. N. J. no. P^{a} ay. Del. ay. M^{d} ay. V^{a} ay. N. C. ay. S. C. no. Geo. no.

"To receive fixt stipends by which they may be compensated for their services" considered.

General Pinkney proposed "that no Salary should be allowed." As this (the Senatorial) branch was meant to represent the wealth of the Country, it ought to be composed of persons of wealth; and if no allowance was to be made the wealthy alone would undertake the service. He moved to strike out the clause.

Doct^{r} Franklin seconded the motion. He wished the Convention to stand fair with the people. There were in it a number of young men who would probably be of the Senate. If lucrative appointments should be recommended we might be chargeable with having carved out places for ourselves. On the question,—Mas^{ts} Connecticut[2] P^{a} M^{d} S. Carolina ay. N. Y. N. J. Del. Virg^{a} N. C. Geo. no.

Mr Williamson moved to change the expression into these words to wit "to receive a compensation

[1] Yates has the question on *five* years, but this is obviously a mistake.—Yates, *Secret Proceedings*, etc., 172.

[2] Quer. whether Connecticut should not be, no, & Delaware, ay—Madison's Note.

for the devotion of their time to the public service." The motion was seconded by Mr Elseworth, and agreed to by all the States except S. Carol.a It seemed to be meant only to get rid of the word "fixt" and leave greater room for modifying the provision on this point.

Mr Elseworth moved to strike out "to be paid out of the Natl Treasury" and insert "to be paid by their respective States." If the Senate was meant to strengthen the Gov.t it ought to have the confidence of the States. The States will have an interest in keeping up a representation, and will make such provision for supporting the members as will ensure their attendance.

Mr Madison considered this as a departure from a fundamental principle, and subverting the end intended by allowing the Senate a duration of 6 years. They would if this motion should be agreed to, hold their places during pleasure; during the pleasure of the State Legislatures. One great end of the institution was, that being a firm, wise and impartial body, it might not only give stability to the Genl Gov.t in its operations on individuals, but hold an even balance among different States. The motion would make the Senate like Congress, the mere Agents & Advocates of State interests & views, instead of being the impartial umpires & Guardians of justice and the general Good. Cong.s had lately by the establishment of a board with full powers to decide on the mutual claims between the U. States & the individual States, fairly acknowledged themselves

to be unfit for discharging this part of the business referred to them by the Confederation.

Mr. Dayton[1] considered the payment of the Senate by the States as fatal to their independence, he was decided for paying them out of the Natl. Treasury.

On the question for payment of the Senate to be left to the States as moved by Mr. Elseworth.

Mass.ts no. Con.t ay. N. Y. ay. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. ay. Geo. ay.

Col. Mason. He did not rise to make any motion, but to hint an idea which seemed to be proper for consideration. One important object in constituting the Senate was to secure the rights of property. To give them weight & firmness for this purpose, a considerable duration in office was thought necessãy. But a longer term than 6 years, would be of no avail in this respect, if needy persons should be appointed. He suggested therefore the propriety of annexing to the office a qualification of property. He thought this would be very practicable; as the rules of taxation would supply a scale for measuring the degree of wealth possessed by every man.

[1] "Cap. Dayton is a young Gentleman of talents, with ambition to exert them. He possesses a good education and some reading; he speaks well, and seems desirous of improving himself in Oratory. There is an impetuosity in his temper that is injurious to him; but there is an honest rectitude about him that makes him a valuable Member of Society, and secures to him the esteem of all good Men. He is about 30 years old, served with me a Brother Aid to General Sullivan in the Western Expedition of '79."—Pierce's Notes, *Am. Hist. Rev.*, iii., 328.

A question was then taken whether the words "to be paid out of the public treasury," should stand.

Mass^{ts} ay. Con^{t} no. N. Y. no. N. J. no. P^{a} ay. Del. ay. M^{d} ay. V^{a} ay. N. C. no. S. C. no. Geo. no.

Mr Butler moved to strike out the ineligibility of Senators to *State offices*.

Mr. Williamson seconded the motion.[1]

Mr Wilson remarked the additional dependance this w^{d} create in the Senators on the States. The longer the time he observed allotted to the Officer, the more compleat will be the dependance if it exists at all.[2]

Genl Pinkney was for making the States as much as could be conveniently done, a part of the Genl Gov^{t} If the Senate was to be appointed by the States, it ought in pursuance of the same idea to be paid by the States: and the States ought not to be barred from the opportunity of calling members of it into offices at home. Such a restriction would also discourage the ablest men from going into the Senate. ! !

Mr Williamson moved a resolution so penned as to admit of the two following questions. 1. whether the

[1] According to Yates, before Wilson spoke:

"Mr. Madison. Congress heretofore depended on state interests; we are now going to pursue the same plan."—Yates, *Secret Proceedings*, etc., 173.

[2] After Wilson, according to Yates:

"Mr. Butler. This second branch I consider as the aristocratic part of our government; and they must be controlled by the states, or they will be too independent."—Yates, *Secret Proceedings*, etc., 173.

members of the Senate should be ineligible to & incapable of holding offices *under the U. States*

2. Whether &c. under the *particular States.*

On the Question to postpone in order to consider Williamson's Resol.n Mas.ts no. Con.t ay. N. Y. no. N. J. no. P.a ay. Del. ay. M.d ay. V.a ay. N. C. ay. S. C. ay. Geo. ay.

M.r Gerry & M.r Madison move to add to M.r Williamson's 1. Quest: "and for 1 year thereafter." On this amend.t

Mas.ts no. Con.t ay. N. Y. ay. N. J. no. P.a no. Del. ay. M.d ay. V.a ay. N. C. ay. S. C. ay. Geo. no.

On M.r Will[iam]son's 1 Question as amend.ed vz, inelig: & incapable &c. &c. for 1 year &c. ag.d to unãmously.

On the 2. question as to ineligibility &c. to State offices,

Mass. ay. C.t no. N. Y. no. N. J. no. P.a ay. Del. no. M.d no. V.a ay. N. C. no. S. C. no. Geo. no.

The 5. Resol: "that each branch have the right of originating acts," was agreed to nem. con.

Adj.d

WEDNESDAY JUNE 27. IN CONVENTION.

M.r Rutlidge moved to postpone the 6.th Resolution, defining the powers of Cong.s in order to take up the 7 & 8 which involved the most fundamental points; the rules of suffrage in the 2 branches which was agreed to nem. con.

A question being proposed on the Resol: 7; declaring that the suffrage in the first branch sh^{d} be according to an equitable ratio.

Mr L. Martin[1] contended at great length and with great eagerness that the General Gov^{t} was meant merely to preserve the State Govern^{ts}, not to govern individuals: that its powers ought to be kept within narrow limits: that if too little power was given to it, more might be added; but that if too much, it could never be resumed: that individuals as such have little to do but with their own States; that the Genl Gov^{t} has no more to apprehend from the States composing the Union, while it pursues proper measures, that Gov^{t} over individuals has to apprehend from its subjects: that to resort to the Citizens at large for their sanction to a new Govern^{t} will be throwing them back into a state of Nature; that the dissolution of the State Gov^{ts} is involved in the nature of the process; that the people have no right to do this without the consent of those to whom they have delegated their power for State purposes: through their tongues only they can speak, through their ears, only can hear: that the States have shewn a good disposition to comply with the Acts of Cong^{s}, weak, contemptibly weak as that body has been; and have failed through inability alone to comply: that the heaviness of the private debts,

[1] "Mr. Martin, the Attorney-General from Maryland, spoke on this subject upwards of three hours. As his arguments were too diffuse, and in many instances desultory, it was not possible to trace him through the whole, or to methodize his ideas into a systematic or argumentative arrangement."—Yates, *Secret Proceedings*, etc., 174.

and the waste of property during the war, were the chief causes of this inability; that he did not conceive the instances mentioned by Mr Madison of compacts between Va & Md between Pa & N. J. or of troops raised by Masts for defence against the Rebels, to be violations of the articles of confederation—that an equal vote in each State was essential to the federal idea, and was founded in justice & freedom, not merely in policy: that tho' the States may give up this right of sovereignty, yet they had not, and ought not: that the States like individuals were in a State of nature equally sovereign & free. In order to prove that individuals in a State of Nature are equally free & independent he read passages from Locke, Vattel, Lord Summers —Priestly. To prove that the case is the same with States till they surrender their equal sovereignty, he read other passages in Locke & Vattel, and also Rutherford: that the States being equal cannot treat or confederate so as to give up an equality of votes without giving up their liberty: that the propositions on the table were a system of slavery for 10 States: that as Va Masts & Pa have $\frac{42}{90}$ of the votes they can do as they please without a miraculous Union of the other ten: that they will have nothing to do, but to gain over one of the ten to make them compleat masters of the rest; that they can then appoint an Executs & Judiciary & legislate for them as they please: that there was & would continue a natural predilection & partiality in men for their own States; that the States, particularly the smaller, would never allow

a negative to be exercised over their laws: that no State in Ratifying the Confederation had objected to the equality of votes; that the complaints at present run not ag^st^ this equality but the want of power: that 16 members from V^a^ would be more likely to act in concert than a like number formed of members from different States: that instead of a junction of the small States as a remedy, he thought a division of the large States would be more eligible.—This was the substance of a speech which was continued more than three hours. He was too much exhausted he said to finish his remarks, and reminded the House that he should tomorrow, resume them.

Adj^d^

THURSDAY JUNE 28TH. IN CONVENTION

Mr L. Martin resumed his discourse,[1] contending that the Genl Gov^t^ ought to be formed for the States, not for individuals: that if the States were to have

[1] Yates gives Martin's speech more fully:

"On federal grounds, it is said, that a minority will govern a majority —but on the Virginia plan a minority would tax a majority. In a federal government, a majority of states must and ought to tax. In the local government of states, counties may be unequal—still numbers, not property, govern. What is the government now forming, over states or persons? As to the latter, their rights cannot be the object of a general government. These are already secured by their guardians, the state governments. The general government is therefore intended only to protect and guard the rights of the states as states.

"This general government, I believe, is the first upon earth which gives checks against democracies or aristocracies. The only necessary check in a general government ought to be a restraint to prevent its absorbing the powers of the state governments. Representation on federal principles can only flow from state societies. Representation

votes in proportion to their numbers of people, it would be the same thing whether their representatives were chosen by the Legislatures or the people; the smaller States would be equally enslaved; that if the large States have the same interest with the smaller as was urged, there could be no danger in giving them an equal vote; they would not injure themselves, and they could not injure the large ones on that supposition without injuring themselves and if the interests, were not the same, the inequality of suffrage w^d be dangerous to the smaller States: that

and taxation are ever inseparable—not according to the quantum of property, but the quantum of freedom.

"Will the representatives of a state forget state interests? The mode of election cannot change it. These prejudices cannot be eradicated—Your general government cannot be just or equal upon the Virginia plan, unless you abolish state interests. If this cannot be done, you must go back to principles purely federal.

"On this latter ground, the state legislatures and their constituents will have no interests to pursue different from the general government, and both will be interested to support each other. Under these ideas can it be expected that the people can approve the Virginia plan? But it is said, the people, not the state legislatures, will be called upon for approbation—with an evident design to separate the interests of the governors from the governed. What must be the consequence? Anarchy and confusion. We lose the ideas of the powers with which we are intrusted. The legislatures must approve. By them it must, on your own plan, be laid before the people. How will such a government, over so many great states, operate. Wherever new settlements have been formed in large states, they immediately want to shake off their independency. Why? Because the government is too remote for their good. The people want it nearer home.

"The basis of all ancient and modern confederacies is the freedom and the independency of the states composing it. The states forming the amphictionic council were equal, though Lacedemon, one of the greatest states, attempted the exclusion of three of the lesser states from this right. The plan reported, it is true, only intends to diminish those rights, not to annihilate them—It was the ambition and

it will be in vain to propose any plan offensive to the rulers of the States, whose influence over the people will certainly prevent their adopting it: that the large States were weak at present in proportion to their extent; & could only be made formidable to the small ones, by the weight of their votes: that in case a dissolution of the Union should take place, the small States would have nothing to fear from their power; that if in such a case the three great States should league themselves together, the other ten could do so too; & that he had rather see partial

power of the great Grecian states which at last ruined this respectable council. The states as societies are ever respectful. Has Holland or Switzerland ever complained of the equality of the states which compose their respective confederacies? Bern and Zurich are larger than the remaining eleven cantons—so of many of the states of Germany; and yet their governments are not complained of. Bern alone might usurp the whole power of the Helvetic confederacy, but she is contented still with being equal.

"The admission of the larger states into the confederation, on the principle of equality, is dangerous—But on the Virginia system it is ruinous and destructive. Still it is the true interest of all the states to confederate—It is their joint efforts which must protect and secure us from foreign danger, and give us peace and harmony at home.

"(Here Mr. Martin entered into a detail of the comparative powers of each state, and stated their probable weakness and strength.)

"At the beginning of our troubles with Great Britain, the smaller states were attempted to be cajoled to submit to the views of that nation, lest the larger states should usurp their rights. We then answered them—your present plan is slavery, which on the remote prospect of a distant evil, we will not submit to.

"I would rather confederate with any single state, than submit to the Virginia plan. But we are already confederated, and no power on earth can dissolve it but by the consent of *all* the contracting powers —and four states, on this floor, have already declared their opposition to annihilate it. Is the old confederation dissolved, because some of the states wish a new confederation?"—Yates, *Secret Proceedings*, etc., 177.

Confederacies take place, than the plan on the table. This was the substance of the residue of his discourse which was delivered with much diffuseness & considerable vehemence.

Mr Lansing & Mr Dayton moved to strike out "not," so that the 7 art. might read that the rights of suffrage in the 1st branch ought to be according to the rule established by the Confederation."

Mr Dayton expressed great anxiety that the question might not be put till tomorrow; Governr Livingston being kept away by indisposition, and the representation of N. Jersey thereby suspended.

Mr Williamson, thought that if any political truth could be grounded on mathematical demonstration, it was that if the States were equally sovereign now, and parted with equal proportions of sovereignty, that they would remain equally sovereign. He could not comprehend how the smaller States would be injured in the case, and wished some Gentleman would vouchsafe a solution of it. He observed that the small States, if they had a plurality of votes would have an interest in throwing the burdens off their own shoulders on those of the large ones. He begged that the expected addition of new States from the Westward might be kept in view. They would be small States, they would be poor States, they would be unable to pay in proportion to their numbers; their distance from market rendering the produce of their labour less valuable; they would consequently be tempted to combine for the purpose of laying burdens on comerce & consumption

which would fall with greatest weight on the old States.

Mr Madison, s^d he was much disposed to concur in any expedient not inconsistent with fundamental principles, that could remove the difficulty concerning the rule of representation. But he could neither be convinced that the rule contended for was just, nor necessary for the safety of the small States ag^st the large States. That it was not just, had been conceded by Mr Breerly & Mr Paterson themselves. The expedient proposed by them was a new partition of the territory of the U. States. The fallacy of the reasoning drawn from the equality of Sovereign States in the formation of compacts, lay in confounding together mere Treaties, in which were specified certain duties to which the parties were to be bound, and certain rules by which their subjects were to be reciprocally governed in their intercourse, with a compact by which an authority was created paramount to the parties, & making laws for the government of them. If France, England & Spain were to enter into a Treaty for the regulation of commerce &c with the Prince of Monacho & 4 or 5 other of the smallest sovereigns of Europe, they would not hesitate to treat as equals, and to make the regulations perfectly reciprocal. W^d the case be the same, if a Council were to be formed of deputies from each with authority and discretion, to raise money, levy troops, determine the value of coin &c? Would 30 or 40, million of people submit their fortunes into the hands of a few thou-

sands? If they did it would only prove that they expected more from the terror of their superior force, than they feared from the selfishness of their feeble associates. Why are Counties of the Same States represented in proportion to their numbers? Is it because the representatives are chosen by the people themselves? So will be the representatives in the Nation.l Legislature. Is it because, the larger have more at stake than the smaller? The Case will be the same with the larger & smaller States. Is it because the laws are to operate immediately on their persons & properties? The same is the case in some degree as the articles of confederation stand; the same will be the case in a far greater degree, under the plan proposed to be substituted. In the cases of captures, of piracies, and of offences in a federal army, the property & persons of individuals depend on the laws of Cong.s By the plan proposed a compleat power of taxation, the highest prerogative of supremacy is proposed to be vested in the National Gov.t Many other powers are added which assimilate it to the Gov.t of individual States. The negative proposed on the State laws, will make it an essential branch of the State Legislatures & of course will require that it should be exercised by a body established on like principles with the other branches of those Legislatures.—That it is not necessãy to secure the small States ag.st the large ones he conceived to be equally obvious: Was a combination of the large ones dreaded? This must arise either from some interest common to V.a Mass.ts & P.a &

distinguishing them from the other States, or from the mere circumstance of similarity of size. Did any such common interest exist? In point of situation they could not have been more effectually separated from each other by the most jealous citizen of the most jealous State. In point of manners, Religion, and the other circumstances which sometimes beget affection between different communities, they were not more assimilated than the other States—In point of the staple productions they were as dissimilar as any three other States in the Union. The Staple of Mass^ts^ was *fish*, of P^a^ *flower*, of V^a^ *Tob^o^* Was a Combination to be apprehended from the mere circumstance of equality of size? Experience suggested no such danger. The journals of Cong^s^ did not present any peculiar association of these States in the votes recorded. It had never been seen that different Counties in the same State, conformable in extent, but disagreeing in other circumstances, betrayed a propensity to such combinations. Experience rather taught a contrary lesson. Among individuals of superior eminence & weight in Society, rivalships were much more frequent than coalitions. Among independent Nations, pre-eminent over their neighbours, the same remark was verified. Carthage & Rome tore one another to pieces instead of uniting their forces to devour the weaker nations of the Earth. The Houses of Austria & France were hostile as long as they remained the greatest powers of Europe. England & France have succeeded to the pre-eminence & to the enmity. To this principle we

owe perhaps our liberty. A coalition between those powers would have been fatal to us. Among the principal members of antient & Modern confederacies, we find the same effect from the same cause. The contentions, not the Coalitions of Sparta, Athens & Thebes, proved fatal to the smaller members of the Amphyctionic Confederacy. The contentions, not the combinations of Prussia & Austria, have distracted & oppressed the German empire. Were the large States formidable *singly* to their smaller neighbours? On this supposition the latter ought to wish for such a General Gov^t as will operate with equal energy on the former as on themselves. The more lax the band, the more liberty the larger will have to avail themselves of their superior force. Here again Experience was an instructive monitor. What is ye situation of the weak compared with the strong in those stages of civilization in which the violence of individuals is least controuled by an efficient Government? The Heroic period of Antient Greece the feudal licentiousness of the middle ages of Europe, the existing condition of the American Savages, answer this question. What is the situation of the minor sovereigns in the great society of independent nations, in which the more powerful are under no controul but the nominal authority of the law of Nations? Is not the danger to the former exactly in proportion to their weakness. But there are cases still more in point. What was the condition of the weaker members of the Amphyctionic Confederacy. Plutarch (life of Themistocles) will inform us that it

happened but too often that the strongest cities corrupted & awed the weaker, and that Judgment went in favor of the more powerful party. What is the condition of the lesser states in the German Confederacy? We all know that they are exceedingly trampled upon; and that they owe their safety as far as they enjoy it, partly to their enlisting themselves, under the rival banners of the pre-eminent members, partly to alliances with neighbouring Princes which the Constitution of the Empire does not prohibit. What is the state of things in the lax system of the Dutch Confederacy? Holland contains about ½ the People, supplies about ½ of the money, and by her influence, silently & indirectly governs the whole republic. In a word; the two extremes before us are a perfect separation & a perfect incorporation, of the 13 States. In the first case they would be independent nations subject to no law, but the law of nations. In the last, they would be mere counties of one entire republic, subject to one common law. In the first case the smaller States would have every thing to fear from the larger. In the last they would have nothing to fear. The true policy of the small States therefore lies in promoting those principles & that form of Gov^t which will most approximate the States to the condition of counties. Another consideration may be added. If the Genl Gov^t be feeble, the large States distrusting its continuance, and foreseeing that their importance & security may depend on their own size & strength, will never submit to a partition. Give to the Genl

Gov^t sufficient energy & permanency, & you remove the objection. Gradual partitions of the large, & junctions of the small States will be facilitated, and time may effect that equalization, which is wished for by the small States now, but can never be accomplished at once.

Mr Wilson. The leading argument of those who contend for equality of votes among the States is that the States as such being equal, and being represented not as districts of individuals, but in their political & corporate capacities, are entitled to an equality of suffrage. According to this mode of reasoning the representation of the boroughs in Engld which has been allowed on all hands to be the rotten part of the Constitution, is perfectly right & proper. They are like the States represented in their corporate capacity like the States therefore they are entitled to equal voices, old Sarum to as many as London. And instead of the injury supposed hitherto to be done to London, the true ground of Complaint lies with old Sarum: for London instead of two which is her proper share, sends four representatives to Parliament.[1]

Mr Sherman. The question is not what rights naturally belong to man; but how they may be most

[1] According to King's Notes, Charles Pinckney spoke after Madison: "*Charles Pinckney.* The Honors & offices may become the objects of strong desire and of combination to acquire them. If Representatives be apportioned among the States in the Ratio of numbers, the Citizens will be free and equal but the States will be unequal, and their sovereignty will be degraded."— King's *Life and Correspondence of Rufus King*, i., 610.

equally & effectually guarded in Society. And if some give up more than others in order to obtain this end, there can be no room for complaint. To do otherwise, to require an equal concession from all, if it would create danger to the rights of some, would be sacrificing the end to the means. The rich man who enters into Society along with the poor man, gives up more than the poor man, yet with an equal vote he is equally safe. Were he to have more votes than the poor man in proportion to his superior stake the rights of the poor man would immediately cease to be secure. This consideration prevailed when the articles of Confederation were formed.[1]

The determination of the question from striking out the word "not" was put off till tomorrow at the request of the Deputies of N. York.

Doc^r Franklin. Mr President

The small progress we have made after 4 or five weeks close attendance & continual reasonings with each other—our different sentiments on almost every question, several of the last producing as many noes as ays, is methinks a melancholy proof of the imperfection of the Human Understanding. We indeed seem to feel our own want of political wisdom, since we have been running about in search of it. We

[1] According to Yates, Madison followed Sherman: "Mr. Madison. There is danger in the idea of the gentleman from Connecticut. Unjust representation will ever produce it. In the United Netherlands, Holland governs the whole, although she has only one vote. The counties in Virginia are exceedingly disproportionate, and yet the smaller has an equal vote with the greater, and no inconvenience arises."—Yates, *Secret Proceedings*, etc., 182.

have gone back to ancient history for models of Government, and examined the different forms of those Republics which having been formed with the seeds of their own dissolution now no longer exist. And we have viewed Modern States all round Europe, but find none of their Constitutions suitable to our circumstances.

In this situation of this Assembly, groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? In the beginning of the Contest with G. Britain, when we were sensible of danger we had daily prayer in this room for the divine protection.—Our prayers, Sir, were heard, & they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a superintending providence in our favor. To that kind providence we owe this happy opportunity of consulting in peace on the means of establishing our future national felicity. And have we now forgotten that powerful friend? or do we imagine that we no longer need his assistance? I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth —*that God Governs in the affairs of men.* And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the sacred writings that "except the Lord build the House they labour

in vain that build it." I firmly believe this; and I also believe that without his concurring aid we shall succeed in this political building no better than the Builders of Babel: We shall be divided by our little partial local interests; our projects will be confounded, and we ourselves shall become a reproach and bye word down to future ages. And what is worse, mankind may hereafter from this unfortunate instance, despair of establishing Governments by Human wisdom and leave it to chance, war and conquest.

I therefore beg leave to move—that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the Clergy of this City be requested to officiate in that Service—

Mr Sharman seconded the motion.

Mr Hamilton & several others expressed their apprehensions that however proper such a resolution might have been at the beginning of the convention, it might at this late day, 1. bring on it some disagreeable animadversions, & 2. lead the public to believe that the embarrassments and dissensions within the Convention, had suggested this measure. It was answered by Doctr F. Mr Sherman & others, that the past omission of a duty could not justify a further omission—that the rejection of such a proposition would expose the Convention to more unpleasant animadversions than the adoption of it: and that the alarm out of doors that might be excited for

the state of things within, would at least be as likely to do good as ill.

Mr Williamson, observed that the true cause of the omission could not be mistaken. The Convention had no funds.

Mr Randolph proposed in order to give a favorable aspect to ye measure, that a sermon be preached at the request of the convention on 4th of July, the anniversary of Independence; & thenceforward prayers be used in ye Convention every morning. Dr Frankn 2ded this motion. After several unsuccessful attempts for silently postponing this matter by adjournng the adjournment was at length carried, without any vote on the motion.

FRIDAY JUNE 29TH IN CONVENTION.

Docr Johnson. The controversy must be endless whilst Gentlemen differ in the grounds of their arguments; Those on one side considering the States as districts of people composing one political Society; those on the other considering them as so many political societies. The fact is that the States do exist as political Societies, and a Govt is to be formed for them in their political capacity, as well as for the individuals composing them. Does it not seem to follow, that if the States as such are to exist they must be armed with some power of self-defence. This is the idea of (Col. Mason) who appears to have looked to the bottom of this matter. Besides the

aristocratic and other interests, which ought to have the means of defending themselves, the States have their interests as such, and are equally entitled to like means. On the whole he thought that as in some respects the States are to be considered in their political capacity, and in others as districts of individual citizens the two ideas embraced on different sides, instead of being opposed to each other, ought to be combined; that in *one* branch the *people*, ought to be represented, in the *other* the *States*.

Mr Ghoram. The States as now confederated have no doubt a right to refuse to be consolidated, or to be formed into any new system. But he wished the small States which seemed most ready to object, to consider which are to give up most, they or the larger ones. He conceived that a rupture of the Union wd be an event unhappy for all, but surely the large States would be least unable to take care of themselves, and to make connections with one another. The weak therefore were most interested in establishing some general system for maintaining order. If among individuals, composed partly of weak, and partly of strong, the former most need the protection of law & Government, the case is exactly the same with weak & powerful States. What would be the situation of Delaware (for these things he found must be spoken out, & it might as well be done at first as last) what wd be the situation of Delaware in case of a separation of the States? Would she not be at the mercy of Pennsylvania? would not her true interest lie in being consolidated with her,

and ought she not now to wish for such a union with P^a^ under one Gov^t^ as will put it out of the power of Pen^a^ to oppress her? Nothing can be more ideal than the danger apprehended by the States from their being formed into one nation. Mass^ts^ was originally three colonies, viz old Mass^ts^ Plymouth—& the province of Mayne. These apprehensions existed then. An incorporation took place; all parties were safe & satisfied; and every distinction is now forgotten. The case was similar with Connecticut & New haven. The dread of Union was reciprocal; the consequence of it equally salutary and satisfactory. In like manner N. Jersey has been made one society out of two parts. Should a separation of the States take place, the fate of N. Jersey w^d^ be worst of all. She has no foreign commerce & can have but little. P^a^ & N. York will continue to levy taxes on her consumption. If she consults her interest she w^d^ beg of all things to be annihilated. The apprehensions of the small States ought to be appeased by another reflection. Mass^ts^ will be divided. The province of Maine is already considered as approaching the term of its annexation to it; and P^a^ will probably not increase, considering the present state of her population, & other events that may happen. On the whole he considered a Union of the States as necessary to their happiness, & a firm Genl Gov^t^ as necessary to their Union. He sh^d^ consider it as his duty if his colleagues viewed the matter in the same light he did to stay here as long as any other State would remain with them, in order to agree on some

plan that could with propriety be recommended to the people.

Mr Elseworth, did not despair. He still trusted that some good plan of Govt wd be devised & adopted.

Mr Read. He shd have no objection to the system if it were truly national, but it has too much of a federal mixture in it. The little States he thought had not much to fear. He suspected that the large States felt their want of energy, & wished for a Genl Govt to supply the defect. Masstts was evidently labouring under her weakness and he believed Delaware wd not be in much danger if in her neighbourhood. Delaware had enjoyed tranquillity & he flattered himself wd continue to do so. He was not however so selfish as not to wish for a good Genl Govt In order to obtain one the whole States must be incorporated. If the States remain, the representatives of the large ones will stick together, and carry everything before them. The Executive also will be chosen under the influence of this partiality, and will betray it in his administration. These jealousies are inseparable from the scheme of leaving the States in existence. They must be done away. The ungranted lands also which have been assumed by particular States must also be given up. He repeated his approbation of the plan of Mr Hamilton, & wished it to be substituted in the place of that on the table.

Mr Madison agreed with Docr Johnson, that the mixed nature of the Govt ought to be kept in view: but thought too much stress was laid on the rank of

the States as political societies. There was a gradation, he observed from the smallest corporation, with the most limited powers, to the largest empire with the most perfect sovereignty. He pointed out the limitations on the sovereignty of the States, as now confederated their laws in relation to the paramount law of the Confederacy were analagous to that of bye laws to the supreme law within a State; Under the proposed Gov^{t} the powers of the States will be much farther reduced. According to the views of every member, the Genl Gov^{t} will have powers far beyond those exercised by the British Parliament, when the States were part of the British Empire. It will in particular have the power, without the consent of the State Legislatures, to levy money directly on the people themselves; and therefore not to divest such *unequal* portions of the people as composed the several States, of an *equal* voice, would subject the system to the reproaches & evils which have resulted from the vicious representation in G. B.

He entreated the gentlemen representing the small States to renounce a principle wch was confessedly unjust, which c^{d} never be admitted, & if admitted must infuse mortality into a Constitution which we wished to last forever. He prayed them to ponder well the consequences of suffering the Confederacy to go to pieces. It had been s^{d} that the want of energy in the large states w^{d} be a security to the small. It was forgotten that this want of energy proceeded from the supposed security of the States

agst all external danger. Let each state depend on itself for its security, & let apprehensions arise of danger, from distant powers or from neighbouring States, & the languishing condition of all the States, large as well as small, w^{d} soon be transformed into vigorous & high toned Gov^{ts} His great fear was that their Gov^{ts} w^{d} then have too much energy, that these might not only be formidable in the large to the small States, but fatal to the internal liberty of all. The same causes which have rendered the old world the Theatre of incessant wars, & have banished liberty from the face of it, w^{d} soon produce the same effects here. The weakness & jealousy of the small States w^{d} quickly introduce some regular military force agst sudden danger from their powerful neighbours. The example w^{d} be followed by others, and w^{d} soon become universal. In time of actual war, great discretionary powers are constantly given to the Executive Magistrate. Constant apprehension of war, has the same tendency to render the head too large for the body. A standing military force, with an overgrown Executive will not long be safe companions to liberty. The means of defence agst foreign danger, have been always the instruments of tyranny at home. Among the Romans it was a standing maxim to excite a war, whenever a revolt was apprehended. Throughout all Europe, the armies kept up under the pretext of defending, have enslaved the people. It is perhaps questionable, whether the best concerted system of absolute power in Europe c^{d} maintain itself, in a situation, where no

alarms of external danger c^d^ tame the people to the domestic yoke. The insular situation of G. Britain was the principal cause of her being an exception to the general fate of Europe. It has rendered less defence necessary, and admitted a kind of defence wch c^d^ not be used for the purpose of oppression.—These consequences he conceived ought to be apprehended whether the States should run into a total separation from each other, or sh^d^ enter into partial confederacies. Either event w^d^ be truly deplorable; & those who might be accessary to either, could never be forgiven by their Country, nor by themselves.

[1] Mr Hamilton observed that individuals forming political Societies modify their rights differently with regard to suffrage. Examples of it are found in all the States. In all of them some individuals are deprived of the right altogether, not having the requisite qualification of property. In some of the States the right of suffrage is allowed in some cases and refused in others. To vote for a member in one branch, a certain quantum of property, to vote for a member in another branch of the Legislature, a higher quantum of property is required. In like manner States may modify their right of suffrage differently, the larger exercising a larger, the smaller a smaller share of it. But as States are a collection of individual men which ought we to respect most, the rights of the people composing them, or of the artificial beings resulting from the composition. Nothing could be more preposterous or absurd than

[1] From this date he was absent till the — of ——.—Madison's Note.

to sacrifice the former to the latter. It has been s^d^ that if the smaller States renounce their *equality*, they renounce at the same time their *liberty*. The truth is it is a contest for power, not for liberty. Will the men composing the small States be less free than those composing the larger. The State of Delaware having 40,000 souls will *lose power*, if she has $\frac{1}{10}$ only of the votes allowed to P^a^ having 400,000: but will the people of Del: *be less free*, if each citizen has an equal vote with each citizen of P^a^ He admitted that common residence within the same State would produce a certain degree of attachment; and that this principle might have a certain influence in public affairs. He thought however that this might by some precautions be in a great measure excluded: and that no material inconvenience could result from it, as there could not be any ground for combination among the States whose influence was most dreaded. The only considerable distinction of interests, lay between the carrying & non-carrying States, which divides instead of uniting the largest States. No considerable inconvenience had been found from the division of the State of N. York into different districts of different sizes.

Some of the consequences of a dissolution of the Union, and the establishment of partial confederacies, had been pointed out. He would add another of a most serious nature. Alliances will immediately be formed with different rival & hostile nations of Europes, who will foment disturbances among ourselves, and make us parties to all their own quarrels.

Foreign Nations having American dominion are & must be jealous of us. Their representatives betray the utmost anxiety for our fate, & for the result of this meeting, which must have an essential influence on it.—It had been said that respectability in the eyes of foreign Nations was not the object at which we aimed; that the proper object of republican Government was domestic tranquillity & happiness. This was an ideal distinction. No Government could give us tranquillity & happiness at home, which did not possess sufficient stability and strength to make us respectable abroad. This was the critical moment for forming such a Government. We should run every risk in trusting to future amendments. As yet we retain the habits of union. We are weak & sensible of our weakness. Henceforward the motives will become feebler, and the difficulties greater. It is a miracle that we were now here exercising our tranquil & free deliberations on the subject. It would be madness to trust to future miracles. A thousand causes must obstruct a reproduction of them.

Mr. Pierce considered the equality of votes under the Confederation as the great source of the public difficulties. The members of Congs. were advocates for local advantages. State distinctions must be sacrificed as far as the general good required, but without destroying the States. Tho' from a small State he felt himself a Citizen of the U. S.

Mr. Gerry, urged that we never were independent States, were not such now, & never could be even

on the principles of the Confederation. The States & the advocates for them were intoxicated with the idea of their *sovereignty*. He was a member of Congress at the time the federal articles were formed. The injustice of allowing each State an equal vote was long insisted on. He voted for it, but it was ag^st^ his Judgment, and under the pressure of public danger, and the obstinacy of the lesser States. The present Confederation he considered as dissolving. The fate of the Union will be decided by the Convention. If they do not agree on something, few delegates will probably be appointed to Cong^s^ If they do Cong^s^ will probably be kept up till the new System should be adopted. He lamented that instead of coming here like a band of brothers, belonging to the same family, we seemed to have brought with us the spirit of political negotiators.

Mr L. Martin remarked that the language of the States being *sovereign & independent*, was once familiar & understood; though it seemed now so strange & obscure. He read those passages in the articles of Confederation, which describe them in that language.

On the question as moved by Mr Lansing. Shall the word "not" be struck out.

Mass^ts^ no. Con^t^ ay. N. Y. ay. N. J. ay. P^a^ no. Del. ay. M^d^ div^d^ V^a^ no. N. C. no. S. C. no. Geo. no.

On the motion to agree to the clause as reported, "that the rule of suffrage in the 1st branch ought not to be according to that established by the Articles of the Confederation

Mass. ay. Con^{t}. no. N. Y. no. N. J. no. P^{a}. ay. Del. no. M^{d}. div^{d}. V^{a}. ay. N. C. ay. S. C. ay. Geo. ay.

Doc^{r} Johnson & Mr Elseworth moved to postpone the residue of the clause, & take up ye 8 Resol:

On question

Mas. no. Con^{t} ay. N. Y. ay. N. J. ay. P^{a}. ay. Del. no. M^{d} ay. V^{a} ay. N. C. ay. S. C. ay. Geo. ay.

Mr Elseworth moved that the rule of suffrage in the 2^{d} branch be the same with that established by the articles of Confederation. "He was not sorry on the whole he said that the vote just passed, had determined against this rule in the first branch. He hoped it would become a ground of compromise with regard to the 2^{d} branch. We were partly national; partly federal. The proportional representation in the first branch was conformable to the national principle & would secure the large States agst the small. An equality of voices was conformable to the federal principle and was necessary to secure the Small States agst the large. He trusted that on this middle ground a compromise would take place. He did not see that it could on any other. And if no compromise should take place, our meeting would not only be in vain but worse than in vain. To the Eastward he was sure Mass^{ts} was the only State that would listen to a proposition for excluding the States as equal political Societies, from an equal voice in both branches. The others would risk every consequence rather than part with so dear a right.

An attempt to deprive them of it, was at once cutting the body of America in two, and as he supposed would be the case, somewhere about this part of it. The large States he conceived would notwithstanding the equality of votes, have an influence that would maintain their superiority. Holland, as had been admitted (by Mr Madison) had, notwithstanding a like equality in the Dutch Confederacy, a prevailing influence in the public measures. The power of self defence was essential to the small States. Nature had given it to the smallest insect of the creation. He could never admit that there was no danger of combinations among the large States. They will like individuals find out and avail themselves of the advantage to be gained by it. It was true the danger would be greater if they were contiguous and had a more immediate common interest. A defensive combination of the small States was rendered more difficult by their great number. He would mention another consideration of great weight. The existing confederation was founded on the equality of the States in the article of suffrage: was it meant to pay no regard to this antecedent plighted faith. Let a strong Executive, a Judiciary & Legislative power be created, but Let not too much be attempted; by which all may be lost. He was not in general a half-way man, yet he preferred doing half the good we could, rather than do nothing at all. The other half may be added, when the necessity shall be more fully experienced.[1]

[1] In King's Notes another speech of Madison's is given after Ells-

Mr Baldwin [1] could have wished that the powers of the General Legislature had been defined, before the mode of constituting it had been agitated. He should vote against the motion of Mr Elseworth, tho. he did not like the Resolution as it stood in the Report of the Comittee of the whole. He thought the second branch ought to be the representation of property, and that in forming it therefore some reference ought to be had to the relative wealth of their Constituents, and to the principles on which the Senate of Massts was constituted. He concurred with those who thought it wd be impossible for the Genl Legislature to extend its cares to the local matters of the States.[2] Adjd

worth's: "*Madison.* One Gentleman from Connecticut has proposed doing as much as is prudent now, leaving future amendments to Posterity,—this is a dangerous doctrine. The Defects of the Amphictionic League were acknowledged, but were reformed. The Netherlands have four times attempted to make amendments in their Confederation, but have failed in each attempt. The Fear of innovation, the hue & Cry in favour of the Liberty of the People will as they have done prevent the necessary Reforms. If the States have equal Votes & influence in the Senate we shall be in the utmost danger, the minority of the People will govern the majority. Delaware during the late war opposed and defeated an Embargo, to which twelve States had agreed, and continued to supply the enemy with Provisions in time of war."—King's *Life and Times of Rufus King*, i., 612.

[1] "Mr. Baldwin is a Gentleman of superior abilities, and joins in a public debate with great art and eloquence. Having laid the foundation of a compleat classical education at Harvard College, he pursues every other study with ease. He is well acquainted with Books and Characters, and has an accommodating turn of mind, which enables him to gain the confidence of Men, and to understand them. He is a practising Attorney in Georgia, and has been twice a Member of Congress. Mr. Baldwin is about 38 years of age."—Pierce's Notes *Am. Hist. Rev.*, iii., 333.

[2] According to Yates, after Baldwin spoke:

"Mr. Madison. I would always exclude inconsistent principles in

SATURDAY JUNE 30. 1787. IN CONVENTION

Mr Brearly moved that the Presid^t write to the Executive of N. Hampshire, informing it that the business depending before the Convention was of such a nature as to require the immediate attendance of the deputies of that State. In support of his motion he observed that the difficulties of the subject and the diversity of opinions called for all the assistance we could possibly obtain. (it was well understood that the object was to add N. Hampshire to the n^o of States opposed to the doctrine of proportional representation, which it was presumed from her relative size she must be adverse to).

Mr Patterson seconded the motion.

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framing a system of government. The difficulty of getting its defects amended are great and sometimes insurmountable. The Virginia state government was the first which was made, and though its defects are evident to every person, we cannot get it amended. The Dutch have made four several attempts to amend their system without success. The few alterations made in it were by tumult and faction, and for the worse. If there was real danger, I would give the smaller states the defensive weapons—But there is none from that quarter. The great danger to our general government is the great southern and northern interests of the continent, being opposed to each other. Look to the votes in congress, and most of them stand divided by the geography of the country, not according to the size of the states.

"Suppose the first branch granted money, may not the second branch, from state views, counteract the first? In congress, the single state of Delaware prevented an embargo, at the time that all the other states thought it absolutely necessary for the support of the army. Other powers, and those very essential, besides the legislative, will be given to the second branch—such as the negativing all state laws. I would compromise on this question, if I could do it on correct principles, but otherwise not—if the old fabric of the confederation must be the groundwork of the new, we must fall."—Yates, *Secret Proceedings*, etc., 189.

Mr Rutlidge could see neither the necessity nor propriety of such a measure. They are not unapprized of the meeting, and can attend if they choose. Rho. Island might as well be urged to appoint & send deputies. Are we to suspend the business until the deputies arrive? if we proceed he hoped all the great points would be adjusted before the letter could produce its effect.

Mr King, said he had written more than once as a private correspondent, & the answers gave him every reason to expect that State would be represented very shortly, if it shd be so at all. Circumstances of a personal nature had hitherto prevented it. A letter cd have no effect.

Mr Wilson wished to know whether it would be consistent with the rule or reason of secrecy, to communicate to N. Hampshire that the business was of such a nature as the motion described. It wd spread a great alarm. Besides he doubted the propriety of soliciting any State on the subject; the meeting being merely voluntary—on motion of Mr Brearly Masts no. Cont no. N. Y. ay. N. J. ay. Pa not on ye floor. Del. not on floor. Md divd Va no. N. C. no. S. C. no. Geo. not on floor.

The motion of Mr Elseworth resumed for allowing each State an equal vote in ye 2d branch.

Mr Wilson did not expect such a motion after the establishment of ye contrary principle in the 1st branch; and considering the reasons which would oppose it, even if an equal vote had been allowed in the 1st branch. The Gentleman from Connecticut

(Mr Elseworth) had pronounced that if the motion should not be acceded to, of all the States North of Pna one only would agree to any Genl Government. He entertained more favorable hopes of Connt and of the other Northern States. He hoped the alarms exceeded their cause, and that they would not abandon a Country to which they were bound by so many strong and endearing ties. But should the deplored event happen, it would neither stagger his sentiments nor his duty. If the minority of the people of America refuse to coalesce with the majority on just and proper principles, if a separation must take place, it could never happen on better grounds. The votes of yesterday agst the just principle of representation, were as 22 to 90 of the people of America. Taking the opinions to be the same on this point, and he was sure if there was any room for change, it could not be on the side of the majority, the question will be shall less than $\frac{1}{4}$ of the U. States withdraw themselves from the Union; or shall more than $\frac{3}{4}$ renounce the inherent, indisputable and unalienable rights of men, in favor of the artificial systems of States. If issue must be joined, it was on this point he would chuse to join it. The Gentleman from Connecticut in supposing that the preponderancy secured to the majority in the 1st branch had removed the objections to an equality of votes in the 2d branch for the security of the minority, narrowed the case extremely. Such an equality will enable the minority to controul in all cases whatsoever, the sentiments and interests of the majority. Seven

States will controul six: Seven States, according to the estimates that had been used, composed $\frac{24}{90}$ of the whole people. It would be in the power then of less than $\frac{1}{3}$ to overrule $\frac{2}{3}$ whenever a question should happen to divide the States in that manner. Can we forget for whom we are forming a Government? Is it for *men*, or for the imaginary beings called *States?* Will our honest Constituents be satisfied with metaphysical distinctions? Will they, ought they to be satisfied with being told, that the one-third compose the greater number of States? The rule of suffrage ought on every principle to be the same in the 2d as in the 1st branch. If the Government be not laid on this foundation, it can be neither solid nor lasting. Any other principle will be local, confined & temporary. This will expand with the expansion, and grow with the growth of the U. States.—Much has been said of an imaginary combination of three States. Sometimes a danger of monarchy, sometimes of aristocrary has been charged on it. No explanation however of the danger has been vouchsafed. It would be easy to prove both from reason & history that rivalships would be more probable than coalitions; and that there are no coinciding interests that could produce the latter. No answer has yet been given to the observations of (Mr Madison) on this subject. Should the Executive Magistrate be taken from one of the large States would not the other two be thereby thrown into the scale with the other States? Whence then the danger of monarchy? Are the people of the three large

States more aristocratic than those of the small ones? Whence then the danger of aristocracy from their influence? It is all a mere illusion of names. We talk of States, till we forget what they are composed of. Is a real & fair majority, the natural hot-bed of aristocracy? It is a part of the definition of this species of Gov.t or rather of tyranny, that the smaller number governs the greater. It is true that a majority of States in the 2.d branch cannot carry a law ag.st a majority of the people in the 1.st But this removes half only of the objection. Bad Govern.ts are of two sorts. 1. that which does too little. 2. that which does too much: that which fails thro' weakness; and that which destroys thro' oppression. Under which of these evils do the U. States at present groan? Under the weakness and inefficiency of its Govern.t. To remedy this weakness we have been sent to this Convention. If the motion should be agreed to, we shall leave the U. S. fettered precisely as heretofore; with the additional mortification of seeing the good purposes of y.e fair representation of the people in the 1.st branch, defeated in the 2.d. Twenty four will still controul sixty six. He lamented that such a disagreement should prevail on the point of representation, as he did not foresee that it would happen on the other point most contested, the boundary between the Gen.l & the local authorities. He thought the States necessary & valuable parts of a good system.

M.r Elseworth. The capital objection of M.r Wilson, "that the minority will rule the majority" is not

true. The power is given to the few to save them from being destroyed by the many. If an equality of votes had been given to them in both branches, the objection might have had weight. Is it a novel thing that the few should have a check on the many? Is it not the case in the British Constitution the wisdom of which so many gentlemen have united in applauding? Have not the House of Lords, who form so small a proportion of the nation a negative on the laws, as a necessary defence of their peculiar rights agst the encroachm^{ts} of the Commons. No instance of a Confederacy has existed in which an equality of voices has not been exercised by the members of it. We are running from one extreme to another. We are razing the foundations of the building, when we need only repair the roof. No salutary measure has been lost for want of *a majority of the States*, to favor it. If security be all that the great States wish for the 1st branch secures them. The danger of combinations among them is not imaginary. Altho' no particular abuses could be foreseen by him, the possibility of them would be sufficient to alarm him. But he could easily conceive cases in which they might result from such combinations. Suppose that in pursuance of some commercial treaty or arrangement, three or four free ports & no more were to be established would not combinations be formed in favor of Boston—Philad^{a} & some port of the Chesapeak? A like concert might be formed in the appointment of the Great officers. He appealed again to the obligations

of the federal pact which was still in force, and which had been entered into with so much solemnity; persuading himself that some regard would still be paid to the plighted faith under which each State small as well as great, held an equal right of suffrage in the general Councils. His remarks were not the result of partial or local views. The State he represented (Connecticut) held a middle rank.

Mr Madison did justice to the able and close reasoning of Mr E. but must observe that it did not always accord with itself. On another occasion, the large States were described by him as the Aristocratic States, ready to oppress the small. Now the Small are the House of Lords requiring a negative to defend them ag^st the more numerous Commons. Mr E. had also erred in saying that no instance had existed in which confederated States had not retained to themselves a perfect equality of suffrage. Passing over the German system in which the K. of Prussia has nine voices, he reminded Mr E. of the Lycian Confederacy, in which the component members had votes proportioned to their importance, and which Montesquieu recommends as the fittest model for that form of Government. Had the fact been as stated by Mr E. it would have been of little avail to him, or rather would have strengthened the arguments ag^st him; the History & fate of the several confederacies modern as well as Antient, demonstrating some radical vice in their structure. In reply to the appeal of Mr E. to the faith plighted in the existing federal compact, he remarked that the

party claiming from others an adherence to a common engagement ought at least to be guiltless itself of a violation. Of all the States however Connecticut was perhaps least able to urge this plea. Besides the various omissions to perform the stipulated acts from which no State was free, the Legislature of that State had by a pretty recent vote, *positively refused* to pass a law for complying with the Requisitions of Cong.s, and had transmitted a copy of the vote to Cong.s It was urged, he said, continually that an equality of votes in the 2.d branch was not only necessary to secure the small, but would be perfectly safe to the large ones whose majority in the 1.st branch was an effectual bulwark. But notwithstanding this apparent defence, the majority of States might still injure the majority of people. 1. they could *obstruct* the wishes and interests of the majority. 2. they could *extort* measures repugnant to the wishes & interest of the Majority. 3. they could *impose* measures adverse thereto; as the 2.d branch will probly exercise some great powers, in which the 1.st will not participate. He admitted that every peculiar interest whether in any class of Citizens, or any description of States, ought to be secured as far as possible. Wherever there is danger of attack there ought to be given a Constitutional power of defence. But he contended that the States were divided into different interests not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from the effects of their having

or not having slaves. These two causes concurred in forming the great division of interests in the U. States. It did not lie between the large & small States: It lay between the Northern & Southern. And if any defensive power were necessary, it ought to be mutually given to these two interests. He was so strongly impressed with this important truth that he had been casting about in his mind for some expedient that would answer the purpose. The one which had occurred was that instead of proportioning the votes of the States in both branches, to their respective numbers of inhabitants computing the slaves in the ratio of 5 to 3, they should be represented in one branch according to the number of free inhabitants only; and in the other according to the whole n° counting the slaves as free. By this arrangement the Southern Scale would have the advantage in one House, and the Northern in the other. He had been restrained from proposing this expedient by two considerations: one was his unwillingness to urge any diversity of interests on an occasion where it is but too apt to arise of itself—the other was, the inequality of powers that must be vested in the two branches, and which w^d destroy the equilibrium of interests.

Mr Elseworth assured the House that whatever might be thought of the Representatives of Connecticut the State was entirely federal in her disposition. He appealed to her great exertions during the war, in supplying both men & money. The muster rolls would show she had more troops in the

field than Virg.ª If she had been Delinquent, it had been from inability, and not more so than other States.

Mr. Sherman. Mr. Madison had animadverted on the delinquency of the States, when his object required him to prove that the Constitution of Congs. was faulty. Congs. is not to blame for the faults of the States. Their measures have been right, and the only thing wanting has been, a further power in Congs. to render them effectual.

Mr. Davy was much embarrassed and wished for explanations. The Report of the Committee allowing the Legislatures to choose the Senate, and establishing a proportional representation in it, seemed to be impracticable. There will according to this rule be ninety members in the outset, and the number will increase as new States are added. It was impossible that so numerous a body could possess the activity and other qualities required in it. Were he to vote on the comparative merits of the report as it stood, and the amendment, he should be constrained to prefer the latter. The appointment of the Senate by electors chosen by the people for that purpose was he conceived liable to an insuperable difficulty. The larger Counties or districts thrown into a general district, would certainly prevail over the smaller Counties or Districts, and merit in the latter would be excluded altogether. The report therefore seemed to be right in referring the appointment to the Legislatures, whose agency in the general System did not appear to him objection-

able as it did to some others. The fact was that the local prejudices & interests which could not be denied to exist, would find their way into the national Councils whether the Representatives should be chosen by the Legislatures or by the people themselves. On the other hand if a proportional representation was attended with insuperable difficulties, the making the Senate the Representative of the States, looked like bringing us back to Cong.s again, and shutting out all the advantages expected from it. Under this view of the subject he could not vote for any plan for the Senate yet proposed. He thought that in general there were extremes on both sides. We were partly federal, partly national in our Union, and he did not see why the Gov.t might not in some respects operate on the States, in others on the people.

Mr. Wilson admitted the question concerning the number of Senators, to be embarrassing. If the smallest States be allowed one, and the others in proportion, the Senate will certainly be too numerous. He looked forward to the time when the smallest States will contain 100,000 souls at least. Let there be then one Senator in each for every 100,000 souls and let the States not having that no. of inhabitants be allowed one. He was willing himself to submit to this temporary concession to the small States; and threw out the idea as a ground of compromise.

Doc.r Franklin. The diversity of opinions turns on two points. If a proportional representation takes

place, the small States contend that their liberties will be in danger. If an equality of votes is to be put in its place, the large States say their money will be in danger. When a broad table is to be made, and the edges of planks do not fit, the artist takes a little from both, and makes a good joint. In like manner here both sides must part with some of their demands, in order that they may join in some accommodating proposition. He had prepared one which he would read, that it might lie on the table for consideration. The proposition was in the words following

"That the Legislatures of the several States shall choose & send an equal number of Delegates, namely ———— who are to compose the 2d branch of the General Legislature—

That in all cases or questions wherein the Sovereignty of individual States may be affected, or whereby their authority over their own Citizens may be diminished, or the authority of the General Government within the several States augmented, each State shall have equal suffrage.

That in the appointment of all Civil officers of ye Genl Govt in the election of whom the 2d branch may by the Constitution have part, each State shall have equal suffrage.

That in fixing the Salaries of such Officers, and in all allowances for public services, and generally in all appropriations & dispositions of money to be drawn out of the general Treasury; and in all laws for supplying that Treasury, the Delegates of the several States shall have suffrage in proportion to

the Sums which their respective States do actually contribute to the Treasury." Where a ship had many owners this was the rule of deciding on her expedition. He had been one of the Ministers from this Country to France during the joint war and w^d^ have been very glad if allowed a vote in distributing the money to carry it on.

Mr King observed that the simple question was whether each State should have an equal vote in the 2^d^ branch; that it must be apparent to those Gentlemen who liked neither the motion for this equality, nor the report as it stood, that the report was as susceptible of melioration as the motion; that a reform would be nugatory & nominal only if we should make another Congress of the proposed Senate: that if the adherence to an equality of votes was fixed & unalterable, there could not be less obstinacy on the other side, & that we were in fact cut asunder already, and it was in vain to shut our eyes against it: that he was however filled with astonishment that if we were convinced that every *man* in America was secured in all his rights, we should be ready to sacrifice this substantial good to the Phantom of *State* sovereignty: that his feelings were more harrowed & his fears more agitated for his Country than he could express, that he conceived this to be the last opportunity of providing for its liberty & happiness: that he could not therefore but repeat his amazement that when a just govern^t^ founded on a fair representation of the *people* of America was within our reach, we should

renounce the blessing, from an attachment to the ideal freedom & importance of *States:* that should this wonderful illusion continue to prevail, his mind was prepared for every event, rather than to sit down under a Gov.t founded in a vicious principle of representation, and which must be as short lived as it would be unjust. He might prevail on himself to accede to some such expedient as had been hinted by M.r Wilson; but he never could listen to an equality of votes as proposed in the motion.

M.r Dayton. When assertion is given for proof, and terror substituted for argument, he presumed they would have no effect however eloquently spoken. It should have been shewn that the evils we have experienced have proceeded from the equality now objected to; and that the seeds of dissolution for the State Governments are not sown in the Gen.l Government. He considered the system on the table as a novelty, an amphibious monster; and was persuaded that it never would be rec.d by the people. M.r Martin w.d never confederate if it could not be done on just principles.

M.r Madison would acquiesce in the concession hinted by M.r Wilson, on condition that a due independence should be given to the Senate. The plan in its present shape makes the Senate absolutely dependent on the States. The Senate therefore is only another edition of Cong.s He knew the faults of that Body & had used a bold language ag.st it. Still he would preserve the State rights, as carefully as the trials by jury.

Mr Bedford, contended that there was no middle way between a perfect consolidation and a mere confederacy of the States. The first is out of the question, and in the latter they must continue if not perfectly, yet equally sovereign. If political Societies possess ambition avarice, and all the other passions which render them formidable to each other, ought we not to view them in this light here? Will not the same motives operate in America as elsewhere? If any gentleman doubts it let him look at the votes. Have they not been dictated by interest, by ambition? Are not the large States evidently seeking to aggrandize themselves at the expense of the small? They think no doubt that they have right on their side, but interest had blinded their eyes. Look at Georgia. Though a small State at present, she is actuated by the prospect of soon being a great one. S. Carolina is actuated both by present interest & future prospects. She hopes too to see the other States cut down to her own dimensions. N. Carolina has the same motives of present & future interest. Virga. follows. Maryd. is not on that side of the Question. Pena. has a direct and future interest. Masstts. has a decided and palpable interest in the part she takes. Can it be expected that the small States will act from pure disinterestedness. Look at G. Britain. Is the Representation there less unequal? But we shall be told again that that is the rotten part of the Constitution. Have not the boroughs however held fast their constitutional rights? And are we to act with greater purity than the rest

of mankind. An exact proportion in the Representation is not preserved in any one of the States. Will it be said that an inequality of power will not result from an inequality of votes. Give the opportunity, and ambition will not fail to abuse it. The whole History of mankind proves it. The three large States have a common interest to bind them together in commerce. But whether a combination as we suppose, or a competition as others suppose, shall take place among them, in either case, the small States must be ruined. We must like Solon make such a Govern^t as the people will approve. Will the smaller States ever agree to the proposed degradation of them. It is not true that the people will not agree to enlarge the powers of the present Cong^s. The language of the people has been that Cong^s ought to have the power of collecting an impost, and of coercing the States where it may be necessary. On The first point they have been explicit &, in a manner, unanimous in their declarations. And must they not agree to this & similar measures if they ever mean to discharge their engagements. The little States are willing to observe their engagements, but will meet the large ones on no ground but that of the Confederation. We have been told with a dictatorial air that this is the last moment for a fair trial in favor of a Good Governm^t. It will be the last indeed if the propositions reported from the Committee go forth to the people. He was under no apprehensions. The Large States dare not dissolve the Confederation. If they do the small ones

will find some foreign ally of more honor and good faith, who will take them by the hand and do them justice. He did not mean by this to intimidate or alarm. It was a natural consequence, which ought to be avoided by enlarging the federal powers not annihilating the federal system. This is what the people expect. All agree in the necessity of a more efficient Gov^t and why not make such an one as they desire.

Mr Elseworth. Under a National Gov^t he should participate in the National Security, as remarked by (Mr King) but that was all. What he wanted was domestic happiness. The Nat^l Gov^t could not descend to the local objects on which this depended. It could only embrace objects of a general nature. He turned his eyes therefore for the preservation of his rights to the State Gov^ts From these alone he could derive the greatest happiness he expects in this life. His happiness depends on their existence, as much as a new born infant on its mother for nourishment. If this reasoning was not satisfactory, he had nothing to add that could be so.

Mr King was for preserving the States in a subordinate degree, and as far as they could be necessary for the purposes stated by Mr Elsewth. He did not think a full answer had been given to those who apprehended a dangerous encroachment on their jurisdictions. Expedients might be devised as he conceived that would give them all the security the nature of things would admit of. In the establishm^t of Societies the Contstitution was to the Legislature

what the laws were to individuals. As the fundamental rights of individuals are secured by express provisions in the State Constitutions; why may not a like security be provided for the Rights of States in the National Constitution. The articles of Union between Engl.d & Scotland furnish an example of such a provision in favor of sundry rights of Scotland. When that Union was in agitation, the same language of apprehension which has been heard from the smaller States, was in the mouths of the Scotch patriots. The articles however have not been violated and the Scotch have found an increase of prosperity & happiness. He was aware that this will be called a mere *paper security*. He thought it a sufficient answer to say that if fundamental articles of compact, are no sufficient defence against physical power, neither will there be any safety ag.st it if there be no compact. He could not sit down, without taking some notice of the language of the honorable gentleman from Delaware (M.r Bedford). It was not he that had uttered a dictatorial language. This intemperance had marked the honorabl Gentleman himself. It was not he who with a vehemence unprecedented in that House, had declared himself ready to turn his hopes from our common Country, and court the protection of some foreign hand. This too was the language of the Honbl member himself. He was grieved that such a thought had entered into his heart. He was more grieved that such an expression had dropped from his lips. The gentleman c.d only excuse it to himself on the score of passion. For

himself whatever might be his distress, he w^d^ never court relief from a foreign power.

Adjourned

MONDAY JULY 2^d^ IN CONVENTION.

On the question for allowing each State one vote in the second branch as moved by Mr Elseworth, Mass^ts^ no. Con^t^ ay. N. Y. ay. N. J. ay. P^a^ no. Del. ay. M^d^ ay. Mr Jenifer being not present Mr Martin alone voted V^a^ no. N. C. no. S. C. no. Geo. div^d^ Mr Houston no. Mr Baldwin ay.

Mr Pinkney thought an equality of votes in the 2^d^ branch inadmissible. At the same time candor obliged him to admit that the large States would feel a partiality for their own Citizens & give them a preference, in appointments: that they might also find some common points in their Commercial interests, and promote treaties favorable to them. There is a real distinction [between] the Northern & South^n^ interests. N. Carol^a^ S. Carol: & Geo. in their Rice & Indigo had a peculiar interest which might be sacrificed. How then shall the larger States be prevented from administering the Genl Gov^t^ as they please, without being themselves unduly subjected to the will of the smaller? By allowing them some but not a full, proportion. He was extremely anxious that something should be done, considering this as the last appeal to a regular experiment. Cong^s^ have failed in almost every effort for an amendment of the federal System. Nothing has

prevented a dissolution of it, but the appointm^t of this Convention; & he could not express his alarms for the consequence of such an event. He read his motion, to form the States into classes, with an apportionment of Senators among them (see Art: 4, of his plan).

General Pinkney. was willing the motion might be considered. He did not entirely approve it. He liked better the motion of Doc^r Franklin (which see Saturday June 30). Some Compromise seemed to be necessary, the States being exactly divided on the question for an equality of votes in the 2^d branch. He proposed that a Committee consisting of a member from each State should be appointed to devise & report some compromise.

Mr L. Martin had no objection to a commitment, but no modifications whatever could reconcile the Smaller States to the least diminution of their equal Sovereignty.

Mr Sharman. We are now at a full stop, and nobody he supposed meant that we sh^d break up without doing something. A committee he thought most likely to hit on some expedient.

[1] Mr. Govr Morris. thought a Com^e adviseable as the Convention had been equally divided. He had a stronger reason also. The mode of appointing the 2^d branch tended he was sure to defeat the object of it. What is this object? To check the precipitation, changeableness, and excesses of the first branch.

[1] He had just returned from N. Y. hav^g left ye Convention a few days after it commenced business.—Madison's Note.

Every man of observation had seen in the democratic branches of the State Legislatures, precipitation—in Congress changeableness, in every department excesses agst personal liberty private property & personal safety. What qualities are necessary to constitute a check in this case? *Abilities* and *virtue*, are equally necessary in both branches. Something more then is now wanted. 1. the checking branch must have a personal interest in checking the other branch, one interest must be opposed to another interest. Vices as they exist, must be turned agst each other. 2. It must have great personal property, it must have the aristocratic spirit; it must love to lord it thro' pride. Pride is indeed the great principle that actuates both the poor & the rich. It is this principle which in the former resists, in the latter abuses authority. 3. It should be independent. In Religion the Creature is apt to forget its Creator. That it is otherwise in Political Affairs, the late debates here are an unhappy proof. The aristocratic body, should be as independent & as firm as the democratic. If the members of it are to revert to a dependence on the democratic choice, the democratic scale will preponderate. All the guards contrived by America have not restrained the Senatorial branches of the Legislatures from a servile complaisance to the democratic. If the 2^{d} branch is to be dependent we are better without it. To make it independent, it should be for life. It will then do wrong, it will be said. He believed so; He hoped so. The Rich will strive to establish their

dominion & enslave the rest. They always did. They always will. The proper security agst them is to form them into a separate interest. The two forces will then controul each other. Let the rich mix with the poor and in a Commercial Country, they will establish an Oligarchy. Take away commerce, and the democracy will triumph. Thus it has been all the world over. So it will be among us. Reason tells us we are but men: and we are not to expect any particular interference of Heaven in our favor. By thus combining & setting apart, the aristocratic interest, the popular interest will be combined agst it. There will be a mutual check and mutual security. 4. An independence for life, involves the necessary permanency. If we change our measures nobody will trust us: and how avoid a change of measures, but by avoiding a change of men. Ask any man if he confides in Cong^{s} if he confides in the State of Pen^{a} if he will lend his money or enter into contract? He will tell you no. He sees no stability. He can repose no confidence. If G. B. were to explain her refusal to treat with us, the same reasoning would be employed.—He disliked the exclusion of the 2^{d} branch from holding offices. It is dangerous. It is like the imprudent exclusion of the military officers during the war, from civil appointments. It deprives the Executive of the principal source of influence. If danger be apprehended from the Executive what a left-handed way is this of obviating it? If the son, the brother or the friend can be appointed, the danger may be

even increased, as the disqualified father &c. can then boast of a disinterestedness which he does not possess. Besides shall the best, the most able, the most virtuous citizens not be permitted to hold offices? Who then are to hold them? He was also ag^st^ paying the Senators. They will pay themselves if they can. If they can not they will be rich and can do without it. Of such the 2^d^ branch ought to consist; and none but such can compose it if they are not to be paid—He contended that the Executive should appoint the Senate & fill up vacancies. This gets rid of the difficulty in the present question. You may begin with any ratio you please; it will come to the same thing. The members being independ^t^ & for life, may be taken as well from one place as from another.—It should be considered too how the scheme could be carried through the States. He hoped there was strength of mind eno' in this House to look truth in the face. He did not hesitate therefore to say that loaves & fishes must bribe the Demagogues. They must be made to expect higher offices under the general than the State Gov^ts^ A Senate for life will be a noble bait. Without such captivating prospects, the popular leaders will oppose & defeat the plan. He perceived that the 1st branch was to be chosen by the people of the States; the 2^d^ by those chosen by the people. Is not here a Gov^t^ by the States, a Govern^t^ by Compact between Virg^a^ in the 1st & 2^d^ branch, Mass^ts^ in the 1st & 2^d^ branch &c. This is going back to mere treaty. It it no Gov^t^ at all. It is altogether dependent on the

States, and will act over again the part which Congs has acted. A firm Govern.t alone can protect our liberties. He fears the influence of the rich. They will have the same effect here as elsewhere if we do not by such a Gov.t keep them within their proper sphere. We should remember that the people never act from reason alone. The Rich will take the advantage of their passions & make these the instruments for oppressing them. The Result of the Contest will be a violent aristocracy, or a more violent despotism. The schemes of the Rich will be favored by the extent of the Country. The people in such distant parts cannot communicate & act in concert. They will be the dupes of those who have more knowledge & intercourse. The only security ag.st encroachments will be a select & sagacious body of men, instituted to watch ag.st them on all sides. He meant only to hint these observations, without grounding any motion on them.

M.r Randolph favored the commitment though he did not expect much benefit from the expedient. He animadverted on the warm & rash language of M.r Bedford on Saturday; reminded the small States that if the large States should combine some danger of which he did not deny there would be a check in the revisionary power of the Executive, and intimated that in order to render this still more effectual, he would agree that in the choice of an Executive each State should have an equal vote. He was persuaded that two such opposite bodies as M.r Morris had planned, could never long co-exist. Dissen-

tions would arise, as has been seen even between the Senate and H. of Delegates in Maryland, appeals would be made to the people; and in a little time commotions would be the result—He was far from thinking the large States could subsist of themselves any more than the small; an avulsion would involve the whole in ruin, and he was determined to pursue such a scheme of Government as would secure us ag^st^ such a calamity.

Mr Strong was for the comitment; and hoped the mode of constituting both branches would be referred. If they should be established on different principles, contentions would prevail, and there would never be a concurrence in necessary measures.

Doc^r^ Williamson. If we do not concede on both sides, our business must soon be at an end. He approved of the comitment, supposing that as the Com^e^ w^d^ be a smaller body, a compromise would be pursued with more coolness.

Mr Wilson objected to the Committee, because it would decide according to that very rule of voting which was opposed on one side. Experience in Cong^s^ had also proved the inutility of Committees consisting of members from each State.

Mr Lansing w^d^ not oppose the commitment, though expecting little advantage from it.

Mr Madison opposed the Comitment. He had rarely seen any other effect than delay from *such* Committees in Cong^s^ Any scheme of compromise that could be proposed in the Committee

might as easily be proposed in the House; and the report of the Committee where it contained merely the *opinion* of the Com^e^ would neither shorten the discussion, nor influence the decision of the House.

Mr Gerry was for the commitm^t^. Something must be done, or we shall disappoint not only America, but the whole world. He suggested a consideration of the State we should be thrown into by the failure of the Union. We should be without an Umpire to decide controversies and must be at the mercy of events. What too is to become of our treaties—what of our foreign debts, what of our domestic? We must make concessions on both sides. Without these the Constitutions of the several States would never have been formed.

On the question "for comiting," generally:

Mass^ts^ ay. Con^t^ ay. N. Y. ay. N J. no. P. ay. Del. no. M^d^ ay. V^a^ ay. N. C. ay. S. C. ay. Geo. ay.

On the question for comiting it "to a member from each State,"

Mass^ts^ ay. Con^t^ ay. N. Y. ay. N. J. ay. P^a^ no. Del. ay. M^d^ ay. V^a^ ay. N. C. ay. S. C. ay. Geo. ay.

The Comittee elected by ballot, were Mr Gerry, Mr Elseworth, Mr Yates, Mr Patterson, Dr Franklin, Mr Bedford, Mr Martin, Mr Mason, Mr Davy, Mr Rutlidge, Mr. Baldwin.

That time might be given to the Comittee, and to such as chose to attend to the celebrations on the

anniversary of Independence, the Convention adjourned till Thursday.[1]

[1] "TUESDAY, *July* 3, 1787.

"The *grand committee* met. Mr. Gerry was chosen chairman.

"The committee proceeded to consider in what manner they should discharge the business with which they were intrusted. By the proceedings in the Convention, they were so equally divided on the important question of *representation in the two branches*, that the idea of a conciliatory adjustment must have been in contemplation of the house in the appointment of this committee. But still, how to effect this salutory purpose was the question. Many of the members, impressed with the utility of a general government, connected with it the indispensable necessity of a representation from the states according to their numbers and wealth; while others, equally tenacious of the rights of the states, would admit of no other representation but such as *was strictly federal*, or, in other words, *equality of suffrage*. This brought on a discussion of the principles on which the house had divided, and a lengthy recapitulation of the arguments advanced in the house in support of these opposite propositions. As I had not openly explained my sentiments on any former occasion on this question, but constantly, in giving my vote, *showed my attachment to the national government on federal principles, I took this occcasion to explain my motives*.

"These remarks gave rise to a motion of Dr. Franklin, which after some modification was agreed to, and made the basis of the following report of the Committee."—Yates, *Secret Proceedings*, etc., 205. The report is given by Madison.

Hamilton, who had gone to New York, wrote to Washington under date of July 3d:

"In my passage through the Jerseys, and since my arrival here, I have taken particular pains to discover the public sentiment, and I am more and more convinced that this is the critical opportunity for establishing the prosperity of this country on a solid foundation. I have conversed with men of information, not only in this city, but from different parts of the State, and they agree that there has been an astonishing revolution for the better in the minds of the people.

"The prevailing apprehension among thinking men is, that the Convention, from the fear of shocking the popular opinion, will not go far enough. They seem to be convinced that a strong, well-mounted government will better suit the popular palate than one of a different complexion. Men in office are indeed taking all possible pains to give

Thursday July 5th in Convention

Mr. Gerry delivered in from the Committee appointed on Monday last the following Report.

"The Committee to whom was referred the 8th Resol. of the Report from the Committee of the Whole House, and so much of the 7th as has not been

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an unfavorable impression of the Convention, but the current seems to be moving strongly the other way.

"A plain but sensible man, in a conversation I had with him yesterday, expressed himself nearly in this manner: The people begin to be convinced that 'their excellent form of government,' as they have been used to call it, will not answer their purpose, and that they must substitute something not very remote from that which they have lately quitted.

"These appearances, though they will not warrant a conclusion that the people are yet ripe for such a plan as I advocate, yet serve to prove that there is no reason to despair of their adopting one equally energetic, if the Convention should think proper to propose it. They serve to prove that we ought not to allow too much weight to objections drawn from the supposed repugnance of the people to an efficient constitution. I confess I am more and more inclined to believe that former habits of thinking are regaining their influence with more rapidity than is generally imagined.

"Not having compared ideas with you, sir, I cannot judge how far our sentiments agree; but, as I persuade myself the genuineness of my representations will receive credit with you, my anxiety for the event of the deliberations of the Convention induces me to make this communication of what appears to be the tendency of the public mind.

"I own to you, sir, that I am seriously and deeply distressed at the aspect of the counsels which prevailed when I left Philadelphia. I fear we shall let slip the golden opportunity of rescuing the American empire from disunion, anarchy, and misery.

"No motley or feeble measure can answer the end, or will finally receive the public support. Decision is true wisdom, and will not be less reputable to the Convention than salutary to the community.

"I shall of necessity remain here ten or twelve days. If I have reason to believe that my attendance at Philadelphia will not be mere waste of time, I shall, after that period, rejoin the Convention."—*Hamilton's Works* (Lodge).

decided on, submit the following Report: That the subsequent propositions be recommended to the Convention on condition that both shall be generally adopted. I. that in the 1st branch of the Legislature each of the States now in the Union shall be allowed 1 member for every 40,000 inhabitants of the description reported in the 7th Resolution of the Comte of the whole House: that each State not containing that number shall be allowed 1 member: that all bills for raising or appropriating money, and for fixing the salaries of the officers of the Govern.t of the U. States shall originate in the 1st branch of the Legislature, and shall not be altered or amended by the 2d branch; and that no money shall be drawn from the public Treasury but in pursuance of appropriations to be originated in the 1st branch. "II. That in the 2d branch each State shall have an equal vote."[1]

Mr Ghoram observed that as the report consisted of propositions mutually conditional he wished to

[1] This report was founded on a motion in the Comitte made by Dr Franklin. It was barely acquiesced in by the members from the States opposed to an equity of votes in the 2d branch and was evidently considered by the members on the other side, as a gaining of their point. A motion was made by Mr Sherman. He acted in the place of Mr Elseworth who was kept away by indisposition, in the Committee to the following effect "that each State should have an equal vote in the 2d branch; provided that no decision therein should prevail unless the majority of States concurring should also comprise a majority of the inhabitants of the U. States." This motion was not much deliberated on nor approved in the Committee. A similar proviso had been proposed in the debates on the articles of Confederation in 1777, to the articles giving certain powers to "nine States." See Journals of Congs for 1777, p. 462.—Madison Note.

hear some explanations touching the grounds on which the conditions were estimated.

Mr. Gerry. The Committee were of different opinions as well as the Deputations from which the Comes were taken, and agreed to the Report merely in order that some ground of accommodation might be proposed. Those opposed to the equality of votes have only assented conditionally; and if the other side do not generally agree will not be under any obligation to support the Report.

Mr. Wilson thought the Committee had exceeded their powers.

Mr. Martin was for taking the question on the whole report.

Mr. Wilson was for a division of the question; otherwise it wd. be a leap in the dark.

Mr. Madison could not regard the privilege of originating money bills as any concession on the side of the small States. Experience proved that it had no effect. If seven States in the upper branch wished a bill to be originated, they might surely find some member from some of the same States in the lower branch who would originate it. The restriction as to amendments was of as little consequence. Amendments could be handed privately by the Senate to members in the other house. Bills could be negatived that they might be sent up in the desired shape. If the Senate should yield to the obstinacy of the 1st branch the use of that body as a check would be lost. If the 1st branch should yield to that of the Senate, the privilege would be nugatory. Experience had

also shewn both in G. B. and the States having a similar regulation that it was a source of frequent & obstinate altercations. These considerations had produced a rejection of a like motion on a former occasion when judged by its own merits. It could not therefore be deemed any concession on the present, and left in force all the objections which had prevailed ag^st^ allowing each State an equal voice. He conceived that the Convention was reduced to the alternative of either departing from justice in order to conciliate the smaller States, and the minority of the people of the U. S. or of displeasing these by justly gratifying the larger States and the majority of the people. He could not himself hesitate as to the option he ought to make. The Convention with justice & the majority of the people on their side, had nothing to fear. With injustice and the minority on their side they had every thing to fear. It was in vain to purchase concord in the Convention on terms which would perpetuate discord among their Constituents. The Convention ought to pursue a plan which would bear the test of examination, which would be espoused & supported by the enlightened and impartial part of America, & which they could themselves vindicate and urge. It should be considered that altho' at first many may judge of the system recomended, by their opinion of the Convention, yet finally all will judge of the Convention by the System. The merits of the System alone can finally & effectually obtain the public suffrage. He was not apprehensive that the people

of the small States would obstinately refuse to accede to a Gov.t founded on just principles, and promising them substantial protection. He could not suspect that Delaware would brave the consequences of seeking her fortunes apart from the other States, rather than submit to such a Gov.t; much less could he suspect that she would pursue the rash policy of courting foreign support, which the warmth of one of her representatives (Mr. Bedford) had suggested, or if she sh.d, that any foreign nation w.d be so rash as to hearken to the overture. As little could he suspect that the people of N. Jersey notwithstanding the decided tone of the gentlemen from that State, would choose rather to stand on their own legs, and bid defiance to events, than to acquiesce under an establishment founded on principles the justice of which they could not dispute, and absolutely necessary to redeem them from the exactions levied on them by the comerce of the neighbouring States. A review of other States would prove that there was as little reason to apprehend an inflexible opposition elsewhere. Harmony in the Convention was no doubt much to be desired. Satisfaction to all the States, in the first instance still more so. But if the principal States comprehending a majority of the people of the U. S. should concur in a just & judicious plan, he had the firmest hopes, that all the other States would by degrees accede to it.[1]

[1] Yates, and his colleague, Lansing, left the Convention July 5, despairing of the result of its labors being satisfactory to them. Madison's speech is the last one reported by Yates.—Yates, *Secret Proceedings*, etc.

Mr Butler said he could not let down his idea of the people, of America so far as to believe they would from mere respect to the Convention adopt a plan evidently unjust. He did not consider the privilege concerning money bills as of any consequence. He urged that the 2^d branch ought to represent the States according to their property.

Mr Govr Morris, thought the form as well as the matter of the Report objectionable. It seemed in the first place to render amendments impracticable. In the next place, it seemed to involve a pledge to agree to the 2^d part if the 1st sh^d be agreed to. He conceived the whole aspect of it to be wrong. He came here as a Representative of America; he flattered himself he came here in some degree as a Representative of the whole human race; for the whole human race will be affected by the proceedings of this Convention. He wished gentlemen to extend their views beyond the present moment of time; beyond the narrow limits of place from which they derive their political origin. If he were to believe some things which he had heard, he should suppose that we were assembled to truck and bargain for our particular States. He can not descend to think that any gentlemen are really actuated by these views. We must look forward to the effects of what we do. These alone ought to guide us. Much has been said of the sentiments of the people. They were unknown. They could not be known. All that we can infer is that if the plan we recommend be reasonable & right; all Who have reasonable minds and sound

intentions will embrace it, notwithstanding what had been said by some gentlemen. Let us suppose that the larger States shall agree; and that the smaller refuse; and let us trace the consequences. The opponents of the system in the smaller States will no doubt make a party, and a noise for a time, but the ties of interest, of kindred & of common habits which connect them with other States will be too strong to be easily broken. In N. Jersey particularly he was sure a great many would follow the sentiments of Pen^a & N. York. This Country must be united. If persuasion does not unite it, the sword will. He begged that this consideration might have its due weight. The scenes of horror attending Civil commotion cannot be described, and the conclusion of them will be worse than the term of their continuance. The stronger party will then make traytors of the weaker; and the Gallows & Halter will finish the work of the sword. How far foreign powers would be ready to take part in the confusions he would not say. Threats that they will be invited have it seems been thrown out. He drew the melancholy picture of foreign intrusions as exhibited in the History of Germany, & urged it as a standing lesson to other nations. He trusted that the Gentlemen who may have hazarded such expressions, did not entertain them till they reached their own lips. But returning to the Report he could not think it in any respect calculated for the Public good. As the 2^d branch is now constituted, there will be constant disputes & appeals to the States which will under-

mine the Gen.l Government & controul & annihilate the 1.st branch. Suppose that the delegates from Mass.ts & Rho I. in the Upper House disagree, and that the former are outvoted. What Results? they will immediately declare that their State will not abide by the decision, and make such representations as will produce that effect. The same may happen as to Virg.a & other States. Of what avail then will be what is on paper. State attachments, and State importance have been the bane of this Country. We can not annihilate; but we may perhaps take out the teeth of the serpents. He wished our ideas to be enlarged to the true interest of man, instead of being circumscribed within the narrow compass of a particular Spot. And after all how little can be the motive yielded by selfishness for such a policy. Who can say whether he himself, much less whether his children, will the next year be an inhabitant of this or that State.

M.r Bedford. He found that what he had said as to the small States being taken by the hand, had been misunderstood; and he rose to explain. He did not mean that the small States would court the aid & interposition of foreign powers. He meant that they would not consider the federal compact as dissolved untill it should be so by the Acts of the large States. In this case The consequences of the breach of faith on their part, and the readiness of the small States to fulfill their engagements, would be that foreign Nations having demands on this Country would find it their interest to take the small

States by the hand, in order to do themselves justice. This was what he meant. But no man can foresee to what extremities the small States may be driven by oppression. He observed also in apology that some allowance ought to be made for the habits of his profession in which warmth was natural & sometimes necessary. But is there not an apology in what was said by (Mr Gov.r Morris) that the sword is to unite: by Mr Ghorum that Delaware must be annexed to Penna and N. Jersey divided between Pena and N. York. To hear such language without emotion, would be to renounce the feelings of a man and the duty of a Citizen—As to the propositions of the Committee, the lesser States have thought it necessary to have a security somewhere. This has been thought necessary for the Executive Magistrate of the proposed Gov.t who has a sort of negative on the laws; and is it not of more importance that the States should be protected, than that the Executive branch of the Gov.t sh.d be protected. In order to obtain this, the smaller States have conceded as to the constitution of the first branch, and as to money bills. If they be not gratified by correspondent concessions as to the 2.d branch is it to be supposed they will ever accede to the plan; and what will be the consequence if nothing should be done? The condition of the U. States requires that something should be immediately done. It will be better that a defective plan should be adopted, than that none should be recommended. He saw no reason why

defects might not be supplied with meetings 10, 15, or 20 years hence.

Mr Elseworth said he had not attended the proceedings of the Committee, but was ready to accede to the compromise they had reported. Some compromise was necessary; and he saw none more convenient or reasonable.

Mr Williamson hoped that the expressions of individuals would not be taken for the sense of their colleagues, much less of their States which was not & could not be known. He hoped also that the meaning of those expressions would not be misconstrued or exaggerated. He did not conceive that (Mr Govr Morris) meant that the sword ought to be drawn agst the smaller States. He only pointed out the probable consequences of anarchy in the U. S. A similar exposition ought to be given of the expressions of (Mr Ghorum). He was ready to hear the Report discussed; but thought the propositions contained in it, the most objectionable of any he had yet heard.

Mr Patterson said that he had when the Report was agreed to in the Comte reserved to himself the right of freely discussing it. He acknowledged that the warmth complained of was improper; but he thought the Sword & the Gallows little calculated to produce conviction. He complained of the manner in which Mr M and Mr Govr Morris had treated the small States.

Mr Gerry. Tho' he had assented to the Report in the Committee, he had very material objections to

it. We were however in a peculiar situation. We were neither the same Nation nor different Nations. We ought not therefore to pursue the one or the other of these ideas too closely. If no compromise should take place what will be the consequence. A secession he foresaw would take place; for some gentlemen seem decided on it: two different plans will be proposed; and the result no man could foresee. If we do not come to some agreement among ourselves some foreign sword will probably do the work for us.

Mr Mason. The Report was meant not as specific propositions to be adopted; but merely as a general ground of accommodation. There must be some accommodation on this point, or we shall make little further progress in the work. Accommodation was the object of the House in the appointment of the Committee; and of the Committee in the Report they had made. And however liable the Report might be to objections, he thought it preferable to an appeal to the world by the different sides, as had been talked of by some Gentlemen. It could not be more inconvenient to any gentleman to remain absent from his private affairs, than it was for him; but he would bury his bones in this City rather than expose his Country to the Consequences of a dissolution of the Convention without any thing being done.

The 1st proposition in the report for fixing the representation in the 1st branch, "one member for every 40,000 inhabitants," being taken up.

Mr Gov.r Morris objected to that scale of apportion-

ment. He thought property ought to be taken into the estimate as well as the number of inhabitants. Life & liberty were generally said to be of more value than property. An accurate view of the matter would nevertheless prove that property was the main object of Society. The Savage State was more favorable to liberty than the Civilized; and sufficiently so to life. It was preferred by all men who had not acquired a taste for property; it was only renounced for the sake of property which could only be secured by the restraints of regular Government. These ideas might appear to some new, but they were nevertheless just. If property then was the main object of Gov.t certainly it ought to be one measure of the influence due to those who were to be affected by the Govern.t He looked forward also to that range of New States which w.d soon be formed in the West. He thought the rule of representation ought to be so fixed as to secure to the Atlantic States a prevalence in the National Councils. The new States will know less of the public interest than these, will have an interest in many respects different, in particular will be little scrupulous of involving the Community in wars the burdens & operations of which would fall chiefly on the maritime States. Provision ought therefore to be made to prevent the maritime States from being hereafter outvoted by them. He thought this might be easily done by irrevocably fixing the number of representatives which the Atlantic States should respectively have, and the number which each new State will have.

This w^d^ not be unjust, as the Western settlers w^d^ previously know the conditions on which they were to possess their lands. It would be politic as it would recomend the plan to the present as well as future interest of the States which must decide the fate of it.

Mr Rutlidge. The gentleman last up had spoken some of his sentiments precisely. Property was certainly the principal object of Society. If numbers should be made the rule of representation, the Atlantic States will be subjected to the Western. He moved that the first proposition in the report be postponed in order to take up the following viz "that the suffrages of the several States be regulated and proportioned according to the sums to be paid towards the general revenue by the inhabitants of each State respectively: that an apportionment of suffrages, according to the ratio aforesaid shall be made and regulated at the end of —— years from the 1st meeting of the Legislature of the U. S., and at the end of every —— years but that for the present, and until the period above mentioned, the suffrages shall be for N. Hampshire —— for Massach^ts^ —— &c.

Col. Mason said the case of new States was not unnoticed in the Committee; but it was thought and he was himself decidedly of opinion that if they made a part of the Union, they ought to be subject to no unfavorable discriminations. Obvious considerations required it.

Mr Randolph concurred with Col. Mason.

On Question on Mr Rutlidges motion,

Mas.ts no. Con.t no. N. Y. no. N. J. no. P.a no. Del. no. Mary.d no. V.a no. N. C. no. S. C. ay. Geo. not on floor.

FRIDAY JULY 6.TH IN CONVENTION

M.r Gov.r Morris moved to commit so much of the Report as relates to "1 member for every 40,000 inhabitants." His view was that they might absolutely fix the number for each State in the first instance; leaving the Legislature at liberty to provide for changes in the relative importance of the States, and for the case of new States.

M.r Wilson 2.ded the motion; but with a view of leaving the Committee under no implied shackles.

M.r Ghorum apprehended great inconveniency from fixing directly the number of Representatives to be allowed to each State. He thought the number of Inhabitants the true guide; tho' perhaps some departure might be expedient from the full proportion. The States also would vary in their relative extent by separations of parts of the largest States. A part of Virg.a is now on the point of a separation. In the province of Mayne a Convention is at this time deliberating on a separation from Mas.ts In such events the number of representatives ought certainly to be reduced. He hoped to see all the States made small by proper divisions, instead of their becoming formidable as was apprehended, to the Small States. He conceived that let the Gen.l Government be modified as it might, there would

be a constant tendency in the State Governm^{ts} to encroach upon it: it was of importance therefore that the extent of the States sh^{d} be reduced as much & as fast as possible. The stronger the Gov^{t} shall be made in the first instance the more easily will these divisions be effected; as it will be of less consequence in the opinion of the States whether they be of great or small extent.

Mr Gerry did not think with his Colleague that the large States ought to be cut up. This policy has been inculcated by the middling and smaller States, ungenerously & contrary to the spirit of the Confederation. Ambitious men will be apt to solicit needless divisions, till the States be reduced to the size of Counties. If this policy should still actuate the small States, the large ones cou'd not confederate safely with them; but would be obliged to consult their safety by confederating only with one another. He favored the commitment and thought that Representation ought to be in the Combined ratio of numbers of Inhabitants and of wealth, and not of either singly.

Mr King wished the clause to be committed, chiefly in order to detach it from the Report with which it had no connection. He thought also that the Ratio of Representation proposed could not be safely fixed, since in a century & a half our computed increase of population would carry the number of representatives to an enormous excess; that ye number of inhabitants was not the proper index of ability & wealth; that property was the

primary object of Society; and that in fixing a ratio this ought not to be excluded from the estimate.— With regard to new States, he observed that there was something peculiar in the business which had not been noticed. The U. S. were now admitted to be proprietors of the Country N. West of the Ohio. Cong.s by one of their ordinances have impoliticly laid it out into ten States, and have made it a fundamental article of compact with those who may become settlers, that as soon as the number in any one state shall equal that of the smallest of the 13 original States, it may claim admission into the Union. Delaware does not contain it is computed more than 35,000 souls, and for obvious reasons will not increase much for a considerable time. It is possible then that if this plan be persisted in by Cong.s 10 new votes may be added, without a greater addition of inhabitants than are represented by the single vote of Pen.a The plan as it respects one of the new States is already irrevocable, the sale of the lands having commenced, and the purchasers & settlers will immediately become entitled to all the privileges of the compact.

Mr Butler agreed to the Commitment if the Committee were to be left at liberty. He was persuaded that the more the subject was examined, the less it would appear that the number of inhabitants would be a proper rule of proportion. If there were no other objection the changeableness of the standard would be sufficient. He concurred with those who thought some balance was necessary between the old

& the new States. He contended strenuously that property was the only just measure of representation. This was the great object of Govern^{t}; the great cause of war; the great means of carrying it on.

Mr Pinkney saw no good reason for committing. The value of land had been found on full investigation to be an impracticable rule. The contributions of revenue including imports & exports must be too changeable in their amount; too difficult to be adjusted; and too injurious to the non-commercial States. The number of inhabitants appeared to him the only just & practicable rule. He thought the blacks ought to stand on an equality with the whites: But w^{d} agree to the ratio settled by Cong^{s}. He contended that Cong^{s} had no right under the articles of Confederation to authorize the admission of new States; no such case having been provided for.

Mr Davy was for committing the clause in order to get at the merits of the question arising on the Report. He seemed to think that wealth or property ought to be represented in the 2^{d} branch; and numbers in the 1st branch.

On the Motion for committing as made by Mr Govr Morris,

Mass^{ts} ay. Con^{t} ay. N. Y. no. N. J. no. P^{a} ay. Del. no. M^{d} div^{d} V^{a} ay. N. C. ay. S. C. ay. Geo. ay.

The members app^{d} by Ballot were Mr Govr Morris, Mr Gorham, Mr Randolph, Mr Rutlidge, Mr King.

Mr Wilson signified that his view in agreeing to

the comitm.t was that the Com.e might consider the propriety of adopting a scale similar to that established by the Constitution of Mass.ts which w.d give an advantage to y.e small States without substantially departing from the rule of proportion.

M.r Wilson & M.r Mason moved to postpone the clause relating to money bills in order to take up the clause relating to an equality of votes in the Second branch.

On the question Mass.ts no. Con.t no. N. Y. ay. N. J. ay. P.a ay. Del. ay. M.d ay. V.a ay. N. C. no. S. C. ay. Geo. ay.

The clause relating to equality of votes being under consideration,

Doc.r Franklin observed that this question could not be properly put by itself, the Comittee having reported several propositions as mutual conditions of each other. He could not vote for it if separately taken, but should vote for the whole together.

Col. Mason perceived the difficulty & suggested a reference of the rest of the Report to y.e Committee just appointed, that the whole might be brought into one view.

M.r Randolph disliked y.e reference to that Committee, as it consisted of members from States opposed to the wishes of the smaller States, and could not therefore be acceptable to the latter.

M.r Martin & M.r Jenifer moved to postpone the clause till the Com.e last appointed sh.d report.

M.r Madison observed that if the uncommitted part of the Report was connected with the part just

committed, it ought also to be committed; if not connected, it need not be postponed till report should be made.

On the question for postponing, moved by Mr. Martin & Mr. Jenifer,—Con^t. N. J. Del. Md. Va. Geo. ay Pa. N. C. S. C. no Mass. N. Y. divided.

The 1st. clause relating to the originating of money bills was then resumed.

Mr. Governr. Morris was opposed to a restriction of this right in either branch, considered merely in itself and as unconnected with the point of representation in the 2d. branch. It will disable the 2d. branch from proposing its own money plans, and giving the people an opportunity of judging by comparison of the merits of those proposed by the 1st. branch.

Mr. Wilson could see nothing like a concession here on the part of the smaller States. If both branches were to say yes or no, it was of little consequence which should say yes or no first, which last. If either was indiscriminately to have the right of originating, the reverse of the Report, would he thought be most proper; since it was a maxim that the least numerous body was the fittest for deliberation; the most numerous for decision. He observed that this discrimination had been transcribed from the British into several American constitutions. But he was persuaded that on examination of the American experiments it would be found to be a trifle light as air. Nor could he ever discover the advantage of it in the Parliamentary history of G.

Britain. He hoped if there was any advantage in the privilege, that it would be pointed out.

Mr. Williamson thought that if the privilege were not common to both branches it ought rather to be confined to the 2d. as the bills in that case would be more narrowly watched, than if they originated with the branch having most of the popular confidence.

Mr. Mason. The consideration which weighed with the Committee was that the 1st. branch would be the immediate representatives of the people, the 2d. would not. Should the latter have the power of giving away the people's money, they might soon forget the source from whence they received it. We might soon have an aristocracy. He had been much concerned at the principles which had been advanced by some gentlemen, but had the satisfaction to find they did not generally prevail. He was a friend to proportional representation in both branches; but supposed that some points must be yielded for the sake of accomodation.

Mr. Wilson. If he had proposed that the 2d. branch should have an independent disposal of public money, the observations of (Col. Mason) would have been a satisfactory answer. But nothing could be farther from what he had said. His question was how is the power of the 1st. branch increased or that of the 2d diminished by giving the proposed privilege to the former? Where is the difference, in which branch it begins, if both must concur, in the end?

Mr. Gerry would not say that the concession was a sufficient one on the part of the small States. But

he could not but regard it in the light of a concession. It w^d make it a constitutional principle that the 2^d branch were not possessed of the Confidence of the people in money matters, which w^d lessen their weight & influence. In the next place if the 2^d branch were dispossessed of the privilege, they w^d be deprived of the opportunity which their continuance in office 3 times as long as the 1st branch would give them of making three successive essays in favor of a particular point.

Mr Pinkney thought it evident that the Concession was wholly on one side, that of the large States, the privilege of originating money bills being of no account.

Mr Govr Morris had waited to hear the good effects of the restriction. As to the alarm sounded, of an aristocracy, his creed was that there never was, nor ever will be a civilized Society without an aristocracy. His endeavor was to keep it as much as possible from doing mischief. The restriction if it has any real operation, will deprive us of the services of the 2^d branch in digesting & proposing money bills of which it will be more capable than the 1st branch. It will take away the responsibility of the 2^d branch, the great security for good behavior. It will always leave a plea, as to an obnoxious money bill that it was disliked, but could not be constitutionally amended; nor safely rejected. It will be a dangerous source of disputes between the two Houses. We should either take the British Constitution altogether or make one for ourselves. The Executive there

has dissolved two Houses as the only cure for such disputes. Will our Executive be able to apply such a remedy? Every law directly or indirectly takes money out of the pockets of the people. Again What use may be made of such a privilege in case of great emergency? Suppose an Enemy at the door, and money instantly & absolutely necessary for repelling him, may not the popular branch avail itself of this duress, to extort concessions from the Senate destructive of the Constitution itself. He illustrated this danger by the example of the Long Parliament's exped^{ts} for subverting the H. of Lords; concluding on the whole that the restriction would be either useless or pernicious.

Doc^{r} Franklin did not mean to go into a justification of the Report, but as it had been asked what would be the use of restraining the 2^{d} branch from medling with money bills, he could not but remark that it was always of importance that the people should know who had disposed of their money, & how it had been disposed of. It was a maxim that those who feel, can best judge. This end would, he thought, be best attained, if money affairs were to be confined to the immediate representatives of the people. This was his inducement to concur in the report. As to the danger or difficulty that might arise from a Negative in the 2^{d} where the people w^{d} not be proportionately represented, it might easily be got over by declaring that there should be no such negative; or if that will not do, by declaring that there shall be no such branch at all.

Mr. Martin said that it was understood in the Committee that the difficulties and disputes which had been apprehended, should be guarded agst. in the detailing of the plan.

Mr. Wilson. The difficulties & disputes will increase with the attempts to define & obviate them. Queen Anne was obliged to dissolve her Parliamt. in order to terminate one of these obstinate disputes between the two Houses. Had it not been for the mediation of the Crown, no one can say what the result would have been. The point is still sub judice in England. He approved of the principles laid down by the Hon̄ble President (Doctr. Franklin) his Colleague, as to the expediency of keeping the people informed of their money affairs. But thought they would know as much, and be as well satisfied, in one way as in the other.

Genl. Pinkney was astonished that this point should have been considered as a concession He remarked that the restriction to money bills had been rejected on the merits singly considered, by 8 States agst. 3. and that the very States which now called it a concession, were then agst. it as nugatory or improper in itself.

On the Question whether the clause relating to money bills in the Report of the Comte. consisting of a member from each State, shd. stand as part of the Report

Massts. dividd. Contt. ay. N. Y. divd. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. ay. S. C. no. Geo. divd.

A Question was then raised whether the question was carried in the affirmative; there being but 5 ays out of 11. States present. The words of the rule are (see May 28).

On this question: Mas. Con^{t} N. J. P^{a} Del. M^{d} N. C. S. C. Geo. ay N. Y. V^{a} no

(In several preceding instances like votes had sub silentio been entered as decided in the affirmative.)

Adjourned

SATURDAY, JULY 7. IN CONVENTION.

"Shall the clause allowing each State one vote in the 2^{d} branch, stand as part of the Report,"? being taken up—

Mr Gerry. This is the critical question. He had rather agree to it than have no accommodation. A Govern^{t} short of a proper national plan, if generally acceptable, would be preferable to a proper one which if it could be carried at all, would operate on discontented States. He thought it would be best to suspend the question till the Comm^{e} yesterday appointed, should make report.

Mr Sherman Supposed that it was the wish of every one that some Genl Gov^{t} should be established. An equal vote in the 2^{d} branch would, he thought, be most likely to give it the necessary vigor. The small States have more vigor in their Gov^{ts} than the large ones, the more influence therefore the large ones have, the weaker will be the Gov^{t} In the

large States it will be most difficult to collect the real & fair sense of the people. Fallacy & undue influence will be practised with most success; and improper men will most easily get into office. If they vote by States in the 2d branch, and each State has an equal vote, there must be always a majority of States as well as a majority of the people on the side of public measures, & the Govt will have decision and efficacy. If this be not the case in the 2d branch there may be a majority of States agst public measures, and the difficulty of compelling them to abide by the public determination, will render the Government feebler than it has ever yet been.

Mr Wilson was not deficient in a conciliating temper, but firmness was sometimes a duty of higher obligation. Conciliation was also misapplied in this instance. It was pursued here rather among the Representatives, than among the Constituents; and it wd be of little consequence if not established among the latter; and there could be little hope of its being established among them if the foundation should not be laid in justice and right.

On Question shall the words stand as part of the Report?

Masts div.d Cont ay. N. Y. ay. N. J. ay. Pa no. Del. ay. Md ay. Va no. N. C. ay. S. C. no. Geo. div.d

(Note. several votes were given here in the affirmative or were div.d because another final question was to be taken on the whole report.)

Mr Gerry [1] thought it would be proper to proceed to enumerate & define the powers to be vested in the Genl Gov^t before a question on the report should be taken as to the rule of representation in the 2^d branch.

Mr Madison, observed that it w^d be impossible to say what powers could be safely & properly vested

[1] King gives the three speeches of Gerry, Madison and Patterson as follows:

"*Gerry.* I agree to the measure, provided that the first Br. (H. of Reps.) shall originate money bills and money appropriations. The prejudices as well as the interest of our Constituents must be regarded —two or three thousand men are in office in the States—their influence will be in favor of an Equality of votes among the States.

"*Madison.* Equality in the Senate will enable a minority to hold a majority, and to oblige them to submit to their interests, or they will withdraw their assent to measures essential and necessary to the general Good. I have known one man, when the State was represented by only two, and they were divided, oppose six States in Congress on an important occasion for three days, and finally compel them to gratify his caprice in order to obtain his suffrage. The Senate will possess certain exclusive Powers, such as the appointments to office, if the States have equal votes; a minority of People will appoint the Great Offices. Besides the small States may be near the Seat of Govt.—a bare Quorum of the H. of R. may be easily assembled, and carry a bill against the sense of a majority if all were present, and the Senate, tho' all were present, might confirm such Bill. Virginia has objected to every addition of the powers of Congress, because she has only $\frac{1}{13}$ of the Power when she ought to have one sixth.

"*Paterson.* I hope the question will be taken: if we do not give equal votes in the Senate to the States, the small States agreeing that money Bills and appropriations shall originate in the H. of Reps., elected according to numbers, it must not be expected that the small States will agree to the amendments of the Confederation. Let us decide this question and lose no more time. I think that I shall vote against the provision, because I think that the exclusive originating of money Bills & appropriations by the H. of Reps. is giving up too much on the part of the small States."—King's *Life and Correspondence of Rufus King*, I., 613.

in the Gov^{t} before it was known, in what manner the States were to be represented in it. He was apprehensive that if a just representation were not the basis of the Gov^{t} is would happen, as it did when the Articles of Confederation were depending, that every effectual prerogative would be withdrawn or withheld, and the New Gov^{t} w^{d} be rendered as impotent and as shortlived as the old.

Mr Patterson would not decide whether the privilege concerning money bills were a valuable consideration or not: But he considered the mode & rule of representation in the 1st branch as fully so; and that after the establishment of that point, the small States would never be able to defend themselves without an equality of votes in the 2^{d} branch. There was no other ground of accommodation. His resolution was fixt. He would meet the large States on that ground and no other. For himself he should vote agst the Report, because it yielded too much.

Mr Govr Morris. He had no resolution unalterably fixed except to do what should finally appear to him right. He was agst the Report because it maintained the improper constitution of the 2^{d} branch. It made it another Congress, a mere whisp of straw. It had been s^{d} (by Mr Gerry) that the new Govern^{t} would be partly national, partly federal; that it ought in the first quality to protect individuals; in the second, the States. But in what quality was it to protect the aggregate interest of the whole. Among the many provisions which had been urged, he had seen none for supporting the dignity and

splendor of the American Empire. It had been one of our greatest misfortunes that the great objects of the nation had been sacrificed constantly to local views; in like manner as the general interests of States had been sacrificed to those of the Counties. What is to be the check in the Senate? none; unless it be to keep the majority of the people from injuring particular States. But particular States ought to be injured for the sake of a majority of the people, in case their conduct should deserve it. Suppose they should insist on claims evidently unjust, and pursue them in a manner detrimental to the whole body. Suppose they should give themselves up to foreign influence. Ought they to be protected in such cases. They were originally nothing more than colonial corporations. On the declaration of Independence, a Governm^t was to be formed. The small States aware of the necessity of preventing anarchy, and taking advantage of the moment, extorted from the large ones an equality of votes. Standing now on that ground, they demand under the new system greater rights as men, than their fellow Citizens of the large States. The proper answer to them is that the same necessity of which they formerly took advantage, does not now exist, and that the large States are at liberty now to consider what is right, rather than what may be expedient. We must have an efficient Gov^t and if there be an efficiency in the local Gov^ts the former is impossible. Germany alone proves it. Notwithstanding their common diet, notwithstanding the

great prerogatives of the Emperor as head of the Empire, and his vast resources, as sovereign of his particular dominions, no union is maintained; foreign influence disturbs every internal operation, & there is no energy whatever in the General Governm^{t} Whence does this proceed? From the energy of the local authorities; from its being considered of more consequence to support the Prince of Hesse, than the Happiness of the people of Germany. Do Gentlemen wish this to be ye case here. Good God, Sir, is it possible they can so delude themselves. What if all the Charters & Constitutions of the States were thrown into the fire, and all their demagogues into the Ocean. What would it be to the happiness of America. And will not this be the case here if we pursue the train in wch the business lies. We shall establish an Aulic Council without an Emperor to execute its decrees. The same circumstances which unite the people here, unite them in Germany. They have there a common language, a common law, common usages and manners, and a common interest in being united; Yet their local jurisdictions destroy every tie. The case was the same in the Grecian States. The United Netherlands are at this time torn in factions. With these examples before our eyes shall we form establishments which must necessarily produce the same effects. It is of no consequence from what districts the 2^{d} branch shall be drawn, if it be so constituted as to yield an asylum agst these evils. As it is now constituted he must be agst its being drawn from the States

in equal portions. But still he was ready to join in devising such an amendment of the plan, as will be most likely to secure our liberty & happiness.

Mr. Sherman & Mr. Elseworth moved to postpone the Question on the Report from the Committee of a member from each State, in order to wait for the Report from the Comte of 5 last appointed,

Masts. ay. Cont. ay. N. Y. no. N. J. ay. Pa. ay. Del. ay. Maryland ay. Va. no. N. C. no. S. C. no. Geo. no.

Adjd.

MONDAY JULY 9TH IN CONVENTION.

Mr. Daniel Carroll, from Maryland took his seat.

Mr. Govr. Morris delivered a report from the Comte of 5 members to whom was committed the clause in the Report of the Comte consisting of a member from each State, stating the proper ratio of Representatives in the 1st. branch, to be as 1 to every 40,000 inhabitants, as follows viz

"The Committee to whom was referred the 1st clause of the 1st. proposition reported from the grand Committee, beg leave to report:

I. that in the 1st meeting of the Legislature the 1st. branch thereof consist of 56. members of which Number N. Hampshire shall have 2, Masts. 7, R. Id. 1, Cont. 4, N. Y. 5, N. J. 3, Pa. 8, Del. 1, Md. 4, Va. 9, N. C. 5, S. C. 5, Geo. 2.

II. But as the present situation of the States may probably alter as well in point of wealth as in the

number of their inhabitants, that the Legislature be authorized from time to time to augment ye number of Representatives. And in case any of the States shall hereafter be divided, or any two or more States united, or any new States created within the limits of the United States, the Legislature shall possess authority to regulate the number of Representatives in any of the foregoing cases, upon the principles of their wealth and number of inhabitants."

Mr Sherman wished to know on what principles or calculations the Report was founded. It did not appear to correspond with any rule of numbers, or of any requisition hitherto adopted by Cong^s^

Mr Gorham. Some provision of this sort was necessary in the outset. The number of blacks & whites with some regard to supposed wealth was the general guide. Fractions could not be observed. The Legisl^re^ is to make alterations from time to time as justice & propriety may require. Two objections prevailed ag^st^ the rate of 1 member for every 40,000 inh^ts^ The 1st was that the Representation would soon be too numerous: the 2^d^ that the West^n^ States who may have a different interest, might if admitted on that principle by degrees, outvote the Atlantic. Both these objections are removed. The number will be small in the first instance and may be continued so. And the Atlantic States having ye Gov^t^ in their own hands, may take care of their own interest, by dealing out the right of Representation in safe proportions to the Western States. These were the views of the Committee.

Mr L. Martin wished to know whether the Com^e were guided in the ratio, by the wealth or number of inhabitants, of the States, or by both; noting its variations from former apportionments by Cong^s

Mr Govr Morris & Mr Rutlidge moved to postpone the 1st paragraph relating to the number of members to be allowed each State in the first instance, and to take up the 2^d paragraph authorizing the Legisl^re to alter the number from time to time according to wealth & inhabitants. The motion was agreed to nem. con.

On Question on the 2^d parag^h taken without any debate

Mass^ts ay. Con^t ay. N. Y. no. N. J. no. P^a ay. Del. ay. M^d ay. V^a ay. N. C. ay. S. C. ay. Geo. ay.

Mr Sherman moved to refer the 1st part apportioning the Representatives, to a Comm^e of a member from each State.

Mr Govr Morris seconded the motion; observing that this was the only case in which such committees were useful.

Mr Williamson thought it would be necessary to return to the rule of numbers, but that the Western States stood on different footing. If their property shall be rated as high as that of the Atlantic States, then their representation ought to hold a like proportion. Otherwise if their property was not to be equally rated.

Mr Govr Morris. The Report is little more than a guess. Wealth was not altogether disregarded by

the Com^e^ Where it was apparently in favor of one State, whose n^os^ were superior to the numbers of another, by a fraction only, a member extraordinary was allowed to the former: and so vice versa. The Committee meant little more than to bring the matter to a point for the consideration of the House.

Mr Reed asked why Georgia was allowed 2 members, when her number of inhabitants had stood below that of Delaware.

Mr Govr Morris. Such is the rapidity of the population of that State, that before the plan takes effect, it will probably be entitled to 2 Representatives.

Mr Randolph, disliked the Report of the Com^e^ but had been unwilling to object to it. He was apprehensive that as the number was not be changed, till the Nat^l^ Legislature should please, a pretext would never be wanting to postpone alterations, and keep the power in the hands of those possessed of it. He was in favor of the Commitm^t^ to a member from each State.

M^r^. Patterson considered the proposed estimate for the future according to the combined rules of numbers and wealth, as too vague. For this reason N. Jersey was ag^st^ it. He could regard negroes slaves in no light but as property. They are no free agents, have no personal liberty, no faculty of acquiring property, but on the contrary are themselves property, & like other property entirely at the will of the Master. Has a man in Virg^a^ a number of votes in proportion to the number of his slaves?

And if negroes are not represented in the States to which they belong, why should they be represented in the Genl Gov^{t}. What is the true principle of Representation? It is an expedient by which an assembly of certain individ^{ls} chosen by the people is substituted in place of the inconvenient meeting of the people themselves. If such a meeting of the people was actually to take place, would the slaves vote? They would not. Why then sh^{d} they be represented. He was also agst such an indirect encouragem^{t} of the slave trade; observing that Cong^{s} in their act relating to the change of the 8 art: of Confed^{n} had been ashamed to use the term "slaves" & had substituted a description.

Mr Madison reminded Mr Patterson that his doctrine of Representation which was in its principle the genuine one, must forever silence the pretensions of the small States to an equality of votes with the large ones. They ought to vote in the same proportion in which their Citizens would do, if the people of all the States were collectively met. He suggested as a proper ground of compromise, that in the first branch the States should be represented according to their number of free inhabitants; And in the 2^{d} which had for one of its primary objects the guardianship of property, according to the whole number, including slaves.

Mr Butler urged warmly the justice & necessity of regarding wealth in the apportionment of Representation.

Mr King had always expected that as the Southern

States are the richest, they would not league themselves with the North^n unless some respect were paid to their superior wealth. If the latter expect those preferential distinctions in Commerce, & other advantages which they will derive from the connexion they must not expect to receive them without allowing some advantages in return. Eleven out of 13 of the States had agreed to consider Slaves in the apportionment of taxation; and taxation and Representation ought to go together.

On the question for committing the first paragraph of the Report to a member from each State

Mass^ts ay. Con^t ay. N. Y. no. N. J. ay. P^a ay. Del. ay. M^d ay. V^a ay. N. C. ay. S. C. no. Geo. ay.

The Com^e appointed were Mr King, Mr Sherman, Mr Yates, Mr Brearly, Mr Govr Morris, Mr Reed, Mr Carrol, Mr Madison, Mr Williamson, Mr Rutlidge, Mr Houston.

Adj^d

TEUSDAY, JULY 10. IN CONVENTION.

Mr King reported from the Com^e yesterday appointed that the States at the 1st meeting of the General Legislature, should be represented by 65 members, in the following proportions, to wit N. Hamshire by 3, Mass^ts 8, R. Is^d 1, Con^t 5, N. Y. 6, N. J. 4, P^a 8, Del. 1, M^d 6, V^a 10, N. C. 5, S. C. 5, Georgia 3.

Mr Rutlidge moved that N. Hampshire be reduced

from 3 to 2. members. Her numbers did not entitle her to 3 and it was a poor State.

Gen.l Pinkney seconds the motion.

Mr. King. N. Hamshire has probably more than 120,000 Inhabts and has an extensive Country of tolerable fertility. Its inhabts therefore may be expected to increase fast. He remarked that the four Eastern States, having 800,000 souls, have $\frac{1}{3}$ fewer representatives than the four Southern States, having not more than 700,000 souls, rating the blacks as 5 for 3. The Eastern people will advert to these circumstances, and be dissatisfied. He believed them to be very desirous of uniting with their Southern brethern, but did not think it prudent to rely so far on that disposition as to subject them to any gross inequality. He was fully convinced that the question concerning a difference of interests did not lie where it had hitherto been discussed, between the great & small States; but between the Southern & Eastern. For this reason he had been ready to yield something in the proportion of representatives for the security of the Southern. No principle would justify the giving them a majority. They were brought as near an equality as was possible. He was not averse to giving them a still greater security, but did not see how it could be done.

Gen.l Pinkney. The Report before it was committed was more favorable to the S. States than as it now stands. If they are to form so considerable a minority, and the regulation of trade is to be given to the Gen.l Government, they will be nothing more

than overseers for the Northern States. He did not expect the S. States to be raised to a majority of representatives, but wished them to have something like an equality. At present by the alterations of the Com^e in favor of the N. States they are removed farther from it than they were before. One member indeed had been added to Virg^a which he was glad of as he considered her as a Southern State. He was glad also that the members of Georgia were increased.

Mr Williamson was not for reducing N. Hampshire from 3 to 2, but for reducing some others. The South^n Interest must be extremely endangered by the present arrangement. The North^n States are to have a majority in the first instance and the means of perpetuating it.

Mr Dayton observed that the line between North^n & Southern interest had been improperly drawn; that P^a was the dividing State, there being six on each side of her.

Genl Pinkney urged the reduction, dwelt on the superior wealth of the Southern States, and insisted on its having its due weight in the Government.

Mr Govr Morris regretted the turn of the debate. The States he found had many Representatives on the floor. Few he fears were to be deemed the Representatives of America. He thought the Southern States have by the report more than their share of representation. Property ought to have its weight, but not all the weight. If the South^n States are to supply money. The North^n States are to spill

their blood. Besides, the probable Revenue to be expected from the S. States has been greatly overrated. He was ag^st^ reducing N. Hampshire.

Mr Randolph was opposed to a reduction of N. Hampshire, not because she had a full title to three members; but because it was in his contemplation 1. to make it the duty instead of leaving it in the discretion of the Legislature to regulate the representation by a periodical census. 2. to require more than a bare majority of votes in the Legislature in certain cases & particularly in commercial cases.

On the question for reducing N. Hampshire from 3 to 2 Represent^s^ it passed in the negative

Mass^ts^ no. Con^t^ no. N. J. no. P^a^ no. Del. no. M^d^ no. V^a^ no. N. C. ay. S. C. ay. Geo. no.[1]

Genl Pinkney and Mr Alex^r^ Martin moved that 6 Rep^s^ instead of 5 be allowed to N. Carolina.

On the Question, it passed in the negative

Mass^ts^ no. Con^t^ no. N. J. no. P^a^ no. Del. no. M^d^ no. V^a^ no. N. C. ay. S. C. ay. Geo. ay.

Genl Pinkney & Mr Butler made the same motion in favor of S. Carolina

On the Question it passed in the negative

Mass^ts^ no. Con^t^ no. N. Y. no. N. J. no. P^a^ no. Del. ay. M^d^ no. V^a^ no. N. C. ay. S. C. ay. Geo. ay.

Genl Pinckney & Mr Houston moved that Georgia be allowed 4 instead of 3 Rep^s^ urging the unexampled celerity of its population. On the Question, it passed in the Negative

[1] In printed Journal. N. C. no. Geo. ay Note in Madison's hand.

Mass^{ts}. no. Con^{t}. no. N. Y. no. N. J. no. P^{a}. no. Del. no. M^{d}. no. V^{a}. ay. N. C. ay. S. C. ay. Geo. ay.

M^{r}. Madison, moved that the number allowed to each State be doubled. A *majority* of a *Quorum* of *65* members, was too small a number to represent the whole inhabitants of the U. States; They would not possess enough of the confidence of the people, and w^{d}. be too sparsely taken from the people, to bring with them all the local information which would be frequently wanted. Double the number will not be too great, even with the future additions from New States. The additional expence was too inconsiderable to be regarded in so important a case. And as far as the augmentation might be unpopular on that score, the objection was overbalanced by its effect on the hopes of a greater number of the popular candidates.

M^{r}. Elseworth urged the objection of expence, & that the greater the number, the more slowly would the business proceed; and the less probably be decided as it ought, at last. He thought the number of Representatives too great in most of the State Legislatures; and that a large number was less necessary in the Genl. Legislature than in those of the States, as its business would relate to a few great national Objects only.

M^{r}. Sherman would have preferred 50 to 65. The great distance they will have to travel will render their attendance precarious and will make it difficult to prevail on a sufficient number of fit men to

undertake the service. He observed that the expected increase from new States also deserved consideration.

Mr Gerry was for increasing the number beyond 65. The larger the number, the less the danger of their being corrupted. The people are accustomed to & fond of a numerous representation, and will consider their rights as better secured by it. The danger of excess in the number may be guarded ag^st by fixing a point within which the number shall always be kept.

Col. Mason admitted that the objection drawn from the consideration of expence, had weight both in itself, and as the people might be affected by it. But he thought it outweighed by the objections ag^st the smallness of the number. 38, will he supposes, as being a majority of 65. form a quorum. 20 will be a majority of 38. This was certainly too small a number to make laws for America. They would neither bring with them all the necessary information relative to various local interests, nor possess the necessary confidence of the people. After doubling the number, the laws might still be made by so few as almost to be objectionable on that account.

Mr Read was in favor of the Motion. Two of the States (Del. & R. I.) would have but a single member if the aggregate number should remain at 65. and in case of accident to either of these one State w^d have no representative present to give explanations or informations of its interests or wishes. The people

would not place their confidence in so small a number. He hoped the objects of the Genl Gov^{t} would be much more numerous than seemed to be expected by some gentlemen, and that they would become more & more so. As to New States the highest number of Rep^{s} for the whole might be limited, and all danger of excess thereby prevented.

Mr Rutlidge opposed the motion. The Representatives were too numerous in all the States. The full number allotted to the States may be expected to attend, & the lowest possible quorum sh^{d} not therefore be considered. The interests of their Constituents will urge their attendance too strongly for it to be omitted: and he supposed the Genl Legislature would not sit more than 6 or 8 weeks in the year.

On the Question for doubling the number, it passed in the negative

Mas^{ts} no. Con^{t} no. N. Y. no. N. J. no. P^{a} no. Del. ay. M^{d} no. V^{a} ay. N. C. no. S. C. no. Geo. no.

On the question for agreeing to the apportionment of Rep^{s} as amended by the last committee, it passed in the affirmative

Mas. ay. Con^{t} ay. N. Y. ay. N. J. ay. P^{a} ay. Del. ay. M^{d} ay. V^{a} ay. N. C. ay. S. C. no. Geo. no.

Mr Broom gave notice to the House that he had concurred with a reserve to himself of an intention to claim for his State an equal voice in the 2^{d} branch; which he thought could not be denied after this concession of the small States as to the first branch.

Mr Randolph moved as an amendment to the report of the Comm^e of five "that in order to ascertain the alterations in the population & wealth of the several States the Legislature should be required to cause a census, and estimate to be taken within one year after its first meeting; and every ——— years thereafter, and that the Legisl^re arrange the Representation accordingly."

Mr Govr Morris opposed it as fettering the Legislature too much. Advantage may be taken of it in time of war or the apprehension of it, by new States to extort particular favors. If the mode was to be fixed for taking a Census, it might certainly be extremely inconvenient: if unfixt the Legislature may use such a mode as will defeat the object: and perpetuate the inequality. He was always ag^st such shackles on the Legisl^re They had been found very pernicious in most of the State Constitutions. He dwelt much on the danger of throwing such a preponderancy into the Western Scale, suggesting that in time the Western people w^d outnumber the Atlantic States. He wished therefore to put it in the power of the latter to keep a majority of votes in their own hands. It was objected he said that if the Legisl^re are left at liberty, they will never readjust the Representation. He admitted that this was possible; but he did not think it probable unless the reasons ag^st a revision of it were very urgent & in this case, it ought not to be done.

It was moved to postpone the proposition of Mr Randolph in order to take up the following, viz.

"that the Committee of Eleven, to whom was referred the report of the Committee of five on the subject of Representation, be requested to furnish the Convention with the principles on which they grounded the Report," which was disagreed to; S. C. alone voting in the affirmative.

Adjourned

WEDNESDAY JULY 11. IN CONVENTION.

Mr Randolph's motion requiring the Legisl^re to take a periodical census for the purpose of redressing inequalities in the Representation was resumed.

Mr Sherman was ag^st Shackling the Legislature too much. We ought to choose wise & good men, and then confide in them.

Mr Mason. The greater the difficulty we find in fixing a proper rule of Representation, the more unwilling ought we to be, to throw the task from ourselves on the Genl Legisl^re He did not object to the conjectural ratio which was to prevail in the outset; but considered a Revision from time to time according to some permanent & precise standard as essential to ye fair representation required in the 1st branch. According to the present population of America, the North^n part of it had a right to preponderate, and he could not deny it. But he wished it not to preponderate hereafter when the reason no longer continued. From the nature of man we may be sure that those who have power in their hands will not give it up while they can retain it.

On the contrary we know that they will always when they can rather increase it. If the S. States therefore should have $\frac{3}{4}$ of the people of America within their limits, the Northern will hold fast the majority of Representatives. $\frac{1}{4}$ will govern the $\frac{3}{4}$. The S. States will complain; but they may complain from generation to generation without redress. Unless some principle therefore which will do justice to them hereafter shall be inserted in the Constitution, disagreable as the declaration was to him, he must declare he could neither vote for the system here, nor support it, in his State. Strong objections had been drawn from the danger to the Atlantic interests from new Western States. Ought we to sacrifice what we know to be right in itself, lest it should prove favorable to States which are not yet in existence. If the Western States are to be admitted into the Union, as they arise, they must, he w^d^ repeat, be treated as equals, and subjected to no degrading discriminations. They will have the same pride & other passions which we have and will either not unite with or will speedily revolt from the Union, if they are not in all respects placed on an equal footing with their brethern. It has been said they will be poor, and unable to make equal contributions to the general Treasury. He did not know but that in time they would be both more numerous & more wealthy than their Atlantic brethren. The extent & fertility of their soil, made this probable; and though Spain might for a time deprive them of the natural outlet for their

productions, yet she will, because she must, finally yield to their demands. He urged that numbers of inhabitants; though not always a precise standard of wealth was sufficiently so for every substantial purpose.

Mr Williamson was for making it a duty of the Legislature to do what was right & not leaving it at liberty to do or not to do it. He moved that Mr Randolph's propositions be postpond in order to consider the following "that in order to ascertain the alterations that may happen in the population & wealth of the several States, a census shall be taken of the free white inhabitants and $\frac{3}{5}$ths of those of other descriptions on the 1st year after this Government shall have been adopted and every ——— year thereafter; and that the Representation be regulated accordingly."

Mr Randolph agreed that Mr Williamson's proposition should stand in the place of his. He observed that the ratio fixt for the 1st meeting was a mere conjecture, that it placed the power in the hands of that part of America, which could not always be entitled to it, that this power would not be voluntarily renounced; and that it was consequently the duty of the Convention to secure its renunciation when justice might so require; by some constitutional provisions. If equality between great & small States be inadmissible, because in that case unequal numbers of Constituents wd be represented by equal number of votes; was it not equally inadmissible that a larger & more populous district of America should hereafter

have less representation, than a smaller & less populous district. If a fair representation of the people be not secured, the injustice of the Gov^t will shake it to its foundations. What relates to suffrage is justly stated by the celebrated Montesquieu, as a fundamental article in Republican Gov^t If the danger suggested by Mr Govr Morris be real, of advantage being taken of the Legislature in pressing moments, it was an additional reason, for tying their hands in such a manner that they could not sacrifice their trust to momentary considerations. Cong^s have pledged the public faith to New States, that they shall be admitted on equal terms. They never would or ought to accede on any other. The census must be taken under the direction of the General Legislature. The States will be too much interested to take an impartial one for themselves.

Mr Butler & Genl Pinkney insisted that blacks be included in the rule of Representation *equally* with the whites; and for that purpose moved that the words "three-fifths" be struck out.

Mr Gerry thought that $\frac{3}{5}$ of them was to say the least the full proportion that could be admitted.

Mr Ghorum. This ratio was fixed by Cong^s as a rule of taxation. Then it was urged by the Delegates representing the States having slaves that the blacks were still more inferior to freemen. At present when the ratio of representation is to be established, we are assured that they are equal to freemen. The arguments on y^e former occasion convinced him that $\frac{3}{5}$ was pretty near the just

proportion and he should vote according to the same opinion now.

Mr Butler insisted that the labour of a slave in S. Carola was as productive & valuable as that of a freeman in Masstts, that as wealth was the great means of defence and utility to the Nation they were equally valuable to it with freemen; and that consequently an equal representation ought to be allowed for them in a Government which was instituted principally for the protection of property, and was itself to be supported by property.

Mr Mason could not agree to the motion, notwithstanding it was favorable to Virga because he thought it unjust. It was certain that the slaves were valuable, as they raised the value of land, increased the exports & imports, and of course the revenue, would supply the means of feeding & supporting an army, and might in cases of emergency become themselves soldiers. As in these important respects they were useful to the Community at large, they ought not to be excluded from the estimate of Representation. He could not however regard them as equal to freemen and could not vote for them as such. He added as worthy of remark, that the Southern States have this peculiar species of property over & above the other species of property common to all the States.

Mr Williamson reminded Mr Ghorum that if the Southn States contended for the inferiority of blacks to whites when taxation was in view, the Eastern States on the same occasion contended for their

equality. He did not however either then or now concur in either extreme, but approved of the ratio of $\frac{3}{5}$.

On Mr Butler's motion for considering blacks as equal to Whites in the apportionm^t of Representation

Mass^ts no. Con^t no. (N. Y. not on floor). N. J. no. P^a no. Del. ay. M^d no. V^a no. N. C. no. S. C. ay. Geo. ay.

Mr Govr Morris said he had several objections to the proposition of Mr Williamson. 1. It fettered the Legislature too much. 2. it would exclude some States altogether who would not have a sufficient number to entitle them to a single Representative. 3. it will not consist with the Resolution passed on Saturday last authorizing the Legislature to adjust the Representation from time to time on the principles of population & wealth or with the principles of equity. If slaves were to be considered as inhabitants, not as wealth then the s^d Resolution would not be pursued. If as wealth, then why is no other wealth but slaves included? These objections may perhaps be removed by amendments. His great objection was that the number of inhabitants was not a proper standard of wealth. The amazing difference between the comparative numbers & wealth of different countries, rendered all reasoning superfluous on the subject. Numbers might with greater propriety be deemed a measure of strength, than of wealth, yet the late defence made by G. Britain, ag^st her numerous enemies proved in

the clearest manner, that it is entirely fallacious even in this respect.

Mr King thought there was great force in the objections of Mr Gov.r Morris: he would however accede to the proposition for the sake of doing something.

Mr Rutlidge contended for the admission of wealth in the estimate by which Representation should be regulated. The Western States will not be able to contribute in proportion to their numbers; they sh.d not therefore be represented in that proportion. The Atlantic States will not concur in such a plan. He moved that "at the end of —— years after the 1.st meeting of the Legislature, and of every —— years thereafter, the Legislature shall proportion the Representation according to the principles of wealth & population."

Mr Sherman thought the number of people alone the best rule for measuring wealth as well as representation; and that if the Legislature were to be governed by wealth, they would be obliged to estimate it by numbers. He was at first for leaving the matter wholly to the discretion of the Legislature; but he had been convinced by the observation of (Mr Randolph & Mr Mason), that the *periods* & the *rule*, of revising the Representation ought to be fixt by the Constitution.

Mr Reed thought the Legislature ought not to be too much shackled. It would make the Constitution like Religious Creeds, embarrassing to those bound to conform to them & more likely to produce dissatisfaction and scism, than harmony and union.

Mr Mason objected to Mr Rutlidge's motion, as requiring of the Legislature something too indefinite & impracticable, and leaving them a pretext for doing nothing.

Mr Wilson had himself no objection to leaving the Legislature entirely at liberty. But considered wealth as an impracticable rule.

Mr Ghorum. If the Convention who are comparatively so little biassed by local views are so much perplexed, How can it be expected that the Legislature hereafter under the full biass of those views, will be able to settle a standard. He was convinced by the arguments of others & his own reflections, that the Convention ought to fix some standard or other.

Mr Govr Morris. The arg^ts of others & his own reflections had led him to a very different conclusion. If we can't agree on a rule that will be just at this time, how can we expect to find one that will be just in all times to come. Surely those who come after us will judge better of things present, than we can of things future. He could not persuade himself that numbers would be a just rule at any time. The remarks of (Mr Mason) relative to the Western Country had not changed his opinion on that head. Among other objections it must be apparent they would not be able to furnish men equally enlightened, to share in the administration of our common interests. The Busy haunts of men not the remote wilderness, was the proper school of political Talents. If the Western people get the power into

their hands they will ruin the Atlantic interests. The Back members are always most averse to the best measures. He mentioned the case of Pen^a^ formerly. The lower part of the State had ye power in the first instance. They kept it in y^r^ own hands & the country was ye better for it. Another objection with him ag^st^ admitting the blacks into the census, was that the people of Pen^a^ would revolt at the idea of being put on a footing with slaves. They would reject any plan that was to have such an effect. Two objections had been raised ag^st^ leaving the adjustment of the Representation from time, to time, to the discretion of the Legislature. The 1. was, they would be unwilling to revise it at all. The 2 that by referring to *wealth* they would be bound by a rule which if willing, they would be unable to execute. The 1st obj^n^ distrusts their fidelity. But if their duty, their honor & their oaths will not bind them, let us not put into their hands our liberty, and all our other great interests; let us have no Gov^t^ at all. 2. If these ties will bind them, we need not distrust the practicability of the rule. It was followed in part by the Com^e^ in the apportionment of Representatives yesterday reported to the House. The best course that could be taken would be to leave the interests of the people to the Representatives of the people.

Mr Madison was not a little surprised to hear this implicit confidence urged by a member who on all occasions, had inculcated so strongly, the political depravity of men, and the necessity of checking one

vice and interest by opposing to them another vice & interest. If the Representatives of the people would be bound by the ties he had mentioned, what need was there of a Senate? What of a Revisionary power? But his reasoning was not only inconsistent with his former reasoning, but with itself. At the same time that he recommended this implicit confidence to the Southern States in the Northern majority, he was still more zealous in exhorting all to a jealousy of a Western Majority. To reconcile the gentl.n with himself, it must be imagined that he determined the human character by the points of the compass. The truth was that all men having power ought to be distrusted to a certain degree. The case of Pen.a had been mentioned where it was admitted that those who were possessed of the power in the original settlement, never admitted the new settlem.ts to a due share of it. England was a still more striking example. The power there had long been in the hands of the boroughs, of the minority; who had opposed & defeated every reform which had been attempted. Virg.a was in a lesser degree another example. With regard to the Western States, he was clear & firm in opinion, that no unfavorable distinctions were admissible either in point of justice or policy. He thought also that the hope of contributions to the Treas.y from them had been much underrated. Future contributions it seemed to be understood on all hands would be principally levied on imports & exports. The extent and fertility of the Western

Soil would for a long time give to agriculture a preference over manufactures. Trials would be repeated till some articles could be raised from it that would bear a transportation to places where they could be exchanged for imported manufactures. Whenever the Mississpi should be opened to them, which would of necessity be ye case as soon as their population would subject them to any considerable share of the Public burden, imposts on their trade could be collected with less expence & greater certainty, than on that of the Atlantic States. In the mean time, as their supplies must pass through the *Atlantic States*, their contributions would be levied in the same manner with those of the Atlantic States. He could not agree that any substantial objection lay ag^st^ fix^g^ numbers for the perpetual standard of Representation. It was said that Representation & taxation were to go together; that taxation and wealth ought to go together, that population & wealth were not measures of each other. He admitted that in different climates, under different forms of Gov^t^ and in different stages of civilization the inference was perfectly just. He would admit that in no situation, numbers of inhabitants were an accurate measure of wealth. He contended however that in the U. States it was sufficiently so for the object in contemplation. Altho' their climate varied considerably, yet as the Gov^ts^ the laws, and the manners of all were nearly the same, and the intercourse between different parts perfectly free, population, industry, arts, and the value of

labour, would constantly tend to equalize themselves. The value of labour might be considered as the principal criterion of wealth and ability to support taxes; and this would find its level in different places where the intercourse should be easy & free, with as much certainty as the value of money or any other thing. Wherever labour would yield most, people would resort, till the competition should destroy the inequality. Hence it is that the people are constantly swarming from the more to the less populous places—from Europe to Am^a—from the North^n & Middle parts of the U. S. to the Southern & Western. They go where land is cheaper, because there labour is dearer. If it be true that the same quantity of produce raised on the banks of the Ohio is of less value, than on the Delaware, it is also true that the same labor will raise twice or thrice, the quantity in the former, that it will raise in the latter situation.

Col. Mason. Agreed with Mr Govr Morris that we ought to leave the interests of the people to the Representatives of the people; but the objection was that the Legislature would cease to be the Representatives of the people. It would continue so no longer than the States now containing a majority of the people should retain that majority. As soon as the Southern & Western population should predominate, which must happen in a few years, the power w^d be in the hands of the minority, and would never be yielded to the majority, unless provided for by the Constitution.

On the Question for postponing Mr Williamson's motion, in order to consider that of Mr Rutlidge, it passed in the negative, Masts ay. Cont no. N. J. no. Pa ay. Del. ay. Md no. Va no. N. C. no. S. C. ay. Geo. ay.

On the question on the first clause of Mr Williamson's motion as to taking a census of the *free* inhabitants, it passed in the affirmative; Masts ay. Cont ay. N. J. ay. Pa ay. Del. no. Md no. Va ay. N. C. ay. S. C. no. Geo. no.

the next clause as to $\frac{3}{5}$ of the negroes considered

Mr King being much opposed to fixing numbers as the rule of representation, was particularly so on account of the blacks. He thought the admission of them along with Whites at all, would excite great discontents among the States having no slaves. He had never said as to any particular point that he would in no event acquiesce in & support it; but he wd say that if any in case such a declaration was to be made by him, it would be in this. He remarked that in the temporary allotment of Representatives made by the Committee, the Southern States had received more than the number of their white & Three fifths of their black inhabitants entitled them to.

Mr Sherman. S. Carola had not more beyond her proportion than N. York & N. Hampshire, nor either of them more than was necessary in order to avoid fractions or reducing them below their proportions. Georgia had more; but the rapid growth of that State seemed to justify it. In general the

allotment might not be just, but considering all circumstances, he was satisfied with it.

M^r. Ghorum. supported the propriety of establishing numbers as the rule. He said that in Mass^ts estimates had been taken in the different towns, and that persons had been curious enough to compare these estimates with the respective numbers of people; and it had been found even including Boston, that the most exact proportion prevailed between numbers & property. He was aware that there might be some weight in what had fallen from his colleague, as to the umbrage which might be taken by the people of the Eastern States. But he recollected that when the proposition of Cong^s for changing the 8th art: of the Confed^n was before the Legislature of Mass^ts the only difficulty then was to satisfy them that the negroes ought not to have been counted equally with whites instead of being counted in ratio of three-fifths only.[1]

M^r. Wilson did not well see on what principle the admission of blacks in the proportion of three fifths could be explained. Are they admitted as Citizens? then why are they not admitted on an equality with White Citizens? are they admitted as property? then why is not other property admitted into the computation? These were difficulties however which he thought must be overruled by the necessity of compromise. He had some apprehensions also from the tendency of the blending of the blacks with

[1] They were then to have been a rule of taxation only. Note in Madison's handwriting.

the whites, to give disgust to the people of Pen.ª, as had been intimated by his Colleague (M.r Gov.r Morris). But he differed from him in thinking numbers of inhab.ts so incorrect a measure of wealth. He had seen the Western settlem.ts of P.ª and on a comparison of them with the City of Philad.ª could discover little other difference, than that property was more unequally divided among individuals here than there. Taking the same number in the aggregate in the two situations he believed there would be little difference in their wealth and ability to contribute to the public wants.

M.r Gov.r Morris was compelled to declare himself reduced to the dilemma of doing injustice to the Southern States or to human nature, and he must therefore do it to the former. For he could never agree to give such encouragement to the Slave Trade as would be given by allowing them a representation for their negroes, and he did not believe those States would ever confederate on terms that would deprive them of that trade.

On Question for agreeing to include $\frac{3}{5}$ of the blacks Mass.ts no. Con.t ay. N. J. no. P.ª no. Del. no. Mard.[1] no. V.ª ay. N. C. ay. S. C. no. Geo. ay.

On the question as to taking census "the first year after the meeting of the Legislature"

Mass.ts ay. Con.t no. N. J. ay. P.ª ay. Del. ay. M.d no. V.ª ay. N. C. ay. S. ay. Geo. no

[1] (M.r Carrol s.d in explanation of the vote of M.d that he wished the phraseology to be so altered as to obviate if possible the danger which had been expressed of giving umbrage to the Eastern & Middle States.) Note in Madison's hand.

On filling the blank for the periodical census, with 15 years. Agreed to nem. con.

Mr Madison moved to add, after "15 years," the words "at least" that the Legislature might anticipate when circumstances were likely to render a particular year inconvenient.

On this motion for adding "at least," it passed in the negative the States being equally divided.

Mas. ay. Conct no. N. J. no. Pa no. Del. no. Md no. Va ay. N. C. ay. S. C. ay. Geo. ay.

A Change of the phraseology of the other clause so as to read, "and the Legislature shall alter or augment the representation accordingly," was agreed to nem. con.

On the question on the whole resolution of Mr Williamson as amended,

Mas. no. Conct no. N. J. no. Del. no. Md no. Va no. N. C. no S. C. no. Geo. no.

THURSDAY, JULY 12. IN CONVENTION.

Mr Govr Morris moved to add to the clause empowering the Legislature to vary the Representation according to the principles of wealth & numbers of inhabts a "proviso that taxation shall be in proportion to Representation."

Mr Butler contended again that Representation sd be according to the full number of inhabts including all the blacks; admitting the justice of Mr Govr Morris's motion.

Mr Mason also admitted the justice of the princi-

ple, but was afraid embarrassments might be occasioned to the Legislature by it. It might drive the Legislature to the plan of Requisitions.

Mr Govr Morris, admitted that some objections lay ag^st his Motion, but supposed they would be removed by restraining the rule to *direct* taxation. With regard to indirect taxes on *exports* & imports & on consumption the rule would be inapplicable. Notwithstanding what had been said to the contrary he was persuaded that the imports & consumption were pretty nearly equal throughout the Union.

General Pinkney liked the idea. He thought it so just that it could not be objected to. But foresaw that if the revision of the census was left to the discretion of the Legislature, it would never be carried into execution. The rule must be fixed, and the execution of it enforced by the Constitution. He was alarmed at what was said[1] yesterday, concerning the Negroes. He was now again alarmed at what had been thrown out concerning the taxing of exports. S. Carol^a has in one year exported to the amount of £600,000 Sterling all which was the fruit of the labor of her blacks. Will she be represented in proportion to this amount? She will not. Neither ought she then to be subject to a tax on it. He hoped a clause would be inserted in the system, restraining the Legislature from taxing Exports.

Mr Wilson approved the principle, but could not

[1] By Mr Govr Morris. Note in Madison's handwriting.

see how it could be carried into execution; unless restrained to direct taxation.

Mr Govr Morris having so varied his Motion by inserting the word "direct." It pass^d nem. con. as follows — "provided always that direct taxation ought to be proportioned to representation."

Mr Davie said it was high time now to speak out. He saw that it was meant by some gentlemen to deprive the Southern States of any share of Representation for their blacks. He was sure that N. Carol^a would never confederate on any terms that did not rate them at least as $\frac{3}{5}$. If the Eastern States meant therefore to exclude them altogether the business was at an end.

Dr Johnson, thought that wealth and population were the true, equitable rule of representation; but he conceived that these two principles resolved themselves into one; population being the best measure of wealth. He concluded therefore that ye number of people ought to be established as the rule, and that all descriptions including blacks *equally* with the Whites, ought to fall within the computation. As various opinions had been expressed on the subject, he would move that a Committee might be appointed to take them into consideration and report thereon.

Mr Govr Morris. It has been said that it is high time to speak out, as one member, he would candidly do so. He came here to form a compact for the good of America. He was ready to do so with all the States. He hoped & believed that all would

enter into such a Compact. If they would not he was ready to join with any States that would. But as the Compact was to be voluntary, it is in vain for the Eastern States to insist on what the South^n States will never agree to. It is equally vain for the latter to require what the other States can never admit; and he verily believed the people of Pen^a will never agree to a representation of Negroes. What can be desired by these States more than has been already proposed; that the Legislature shall from time to time regulate Representation according to population & wealth.

Genl Pinkney desired that the rule of wealth should be ascertained and not left to the pleasure of the Legislature; and that property in slaves should not be exposed to danger under a Gov^t instituted for the protection of property.

The first clause in the Report of the first Grand Committee was postponed

Mr Elseworth. In order to carry into effect the principle established, moved that to add to the last clause adopted by the House the words following, "and that the rule of contribution by direct taxation for the support of the Government of the U. States shall be the number of white inhabitants, and three fifths of every other description in the several States, until some other rule that shall more accurately ascertain the wealth of the several States can be devised and adopted by the Legislature."

Mr Butler seconded the motion in order that it might be committed.

Mr Randolph was not satisfied with the motion. The danger will be revived that the ingenuity of the Legislature may evade or pervert the rule so as to perpetuate the power where it shall be lodged in the first instance. He proposed in lieu of Mr Elseworth's motion, "that in order to ascertain the alterations in Representation that may be required from time to time by changes in the relative circumstances of the States, a Census shall be taken within two years from the 1st meeting of the Genl Legislature of the U. S. and once within the term of every —— year afterwards, of all the inhabitants in the manner & according to the ratio recommended by Congress in their resolution of the 18th day of Apl 1783, (rating the blacks at $\frac{3}{5}$ of their number) and that the Legislature of the U. S. shall arrange the Representation accordingly." He urged strenuously that express security ought to be provided for including slaves in the ratio of Representation. He lamented that such a species of property existed. But as it did exist the holders of it would require this security. It was perceived that the design was entertained by some of excluding slaves altogether; the Legislature therefore ought not to be left at liberty.

Mr Elseworth withdraws his motion & seconds that of Mr Randolph.

Mr Wilson observed that less umbrage would perhaps be taken agst an admission of the slaves into the Rule of representation, if it should be so expressed as to make them indirectly only an ingredient in the rule, by saying that they should enter into the rule

of taxation; and as representation was to be according to taxation, the end would be equally attained. He accordingly moved & was 2ded so to alter the last clause adopted by the House, that together with the amendment proposed the whole should read as follows—provided always that the representation ought to be proportioned according to direct taxation, and in order to ascertain the alterations in the direct taxation which may be required from time to time by the changes in the relative circumstances of the States, Resolved that a census be taken within two years from the first meeting of the Legislature of the U. States, and once within the term of every —— years afterwards of all the inhabitants of the U. S. in the manner and according to the ratio recommended by Congress in their Resolution of April 18. 1783; and that the Legislature of the U. S. shall proportion the direct taxation accordingly.

Mr King. Altho' this amendment varies the aspect somewhat, he had still two powerful objections agst tying down the Legislature to the rule of numbers. 1. they were at this time an uncertain index of the relative wealth of the States. 2. if they were a just index at this time it can not be supposed always to continue so. He was far from wishing to retain any unjust advantage whatever in one part of the Republic. If justice was not the basis of the connection it could not be of long duration. He must be shortsighted indeed who does not foresee that whenever the Southern States shall be more numer-

ous than the Northern, they can & will hold a language that will awe them into justice. If they threaten to separate now in case injury shall be done them, will their threats be less urgent or effectual, when force shall back their demands. Even in the intervening period, there will be no point of time at which they will not be able to say, do us justice or we will separate. He urged the necessity of placing confidence to a certain degree in every Gov^t and did not conceive that the proposed confidence as to a periodical readjustment of the representation exceeded that degree.

Mr Pinkney moved to amend Mr Randolph's motion so as to make "blacks equal to the whites in the ratio of representation." This he urged was nothing more than justice. The blacks are the labourers, the peasants of the Southern States: they are as productive of pecuniary resources as those of the Northern States. They add equally to the wealth, and considering money as the sinew of war, to the strength of the nation. It will also be politic with regard to the Northern States, as taxation is to keep pace with Representation.

Genl Pinkney moves to insert 6 years instead of two, as the period computing from the 1st meeting of ye Legis^e within which the first census should be taken. On this question for inserting six, instead of "two" in the proposition of Mr Wilson, it passed in the affirmative

Mass^ts no. C^t ay. N. J. ay. P^a ay. Del. div^d May^d ay. V^a no. N. C. no. S. C. ay. Geo. no.

On a question for filling the blank for ye periodical census with 20 years, it passed in the negative

Mass^ts no. C^t ay. N. J. ay. P. ay. Del. no. M^d no. V^a no. N. C. no. S. C. no. Geo. no.

On a question for 10 years, it passed in the affirmative.

Mass. ay. Con^t no. N. J. no. P. ay. Del. ay. M^d ay. V^a ay. N. C. ay. S. C. ay. Geo. ay.

On Mr Pinkney's motion for rating blacks as equal to Whites instead of as $\frac{3}{5}$.

Mass. no. Con^t no. (Dr Johnson ay) N. J. no. P^a no. (3 ag^st 2.) Del. no. M^d no. V^a no. N. C. no. S. C. ay. Geo—ay.

Mr Randolph's proposition as varied by Mr Wilson being read for question on the whole—

Mr Gerry, urged that the principle of it could not be carried into execution as the States were not to be taxed as States. With regard to taxes in imposts, he conceived they would be more productive Where there were no slaves than where there were; the consumption being greater—

Mr Elseworth. In case of a poll tax there w^d be no difficulty. But there w^d probably be none. The sum allotted to a State may be levied without difficulty according to the plan used by the State in raising its own supplies. On the question of y^e whole proposition; as proportioning representation to direct taxation & both to the white & $\frac{3}{5}$ of black inhabitants, & requiring a Census within six years— & within every ten years afterwards.

Mass. div.d Con.t ay. N. J. no. P.a ay. Del. no. M.d ay. V.a ay. N. C. ay. S. C. div.d Geo. ay.

FRIDAY, JULY 13. IN CONVENTION.

It being moved to postpone the clause in the Report of the Committee of Eleven as to the originating of money bills in *the first* branch, in order to take up the following—"that in the 2.d branch each State shall have an equal voice,"

M.r Gerry, moved to add as an amendment to the last clause agreed to by the House, "that from the first meeting of the Legislature of the U. S. till a census shall be taken all monies to be raised for supplying the public Treasury by direct taxation shall be assessed on the inhabitants of the several States according to the number of their Representatives respectively in the 1.st branch." He said this would be as just before as after the Census; according to the general principle that taxation & Representation ought to go together.

M.r Williamson feared that N. Hamshire will have reason to complain. 3 members were allotted to her as a liberal allowance, for this reason among others, that she might not suppose any advantage to have been taken of her absence. As she was still absent, and had no opportunity of deciding whether she would chuse to retain the number on the condition, of her being taxed in proportion to it, he thought the number ought to be reduced from three to two, before the question was taken on M.r G's motion.

Mr. Read could not approve of the proposition. He had observed he said in the Committee a backwardness in some of the members from the large States, to take their full proportion of Representatives. He did not then see the motive. He now suspects it was to avoid their due share of taxation. He had no objection to a just & accurate adjustment of Representation & taxation to each other.

Mr. Gov.r Morris & Mr. Madison answered that the charge itself involved an acquittal; since notwithstanding the augmentation of the number of members allotted to Mass.ts & Va. the motion for proportioning the burdens thereto was made by a member from the former State & was approved by Mr. M. from the latter who was on the Com.e. Mr. Gov.r Morris said that he thought Pa. had her due share in 8 members; and he could not in candor ask for more. Mr. M. said that having always conceived that the difference of interest in the U. States lay not between the large & small, but the N. & South.n States, and finding that the number of members allotted to the N. States was greatly superior, he should have preferred, an addition of two members to the S. States, to wit one to N. & 1 to S. Carl.a rather than of one member to Virg.a He liked the present motion, because it tended to moderate the views both of the opponents & advocates for rating very high, the negroes.

Mr. Elseworth hoped the proposition would be withdrawn. It entered too much into detail. The general principle was already sufficiently settled.

As fractions can not be regarded in apportioning the *N°. of representatives*, the rule will be unjust, until an actual census shall be made. After that taxation may be precisely proportioned according to the principle established, to the *number of inhabitants*.

Mr. Wilson hoped the motion would not be withdrawn. If it shd. it will be made from another quarter. The rule will be as reasonable & just before, as after a Census. As to fractional numbers, the Census will not destroy, but ascertain them. And they will have the same effect after as before the Census; for as he understands the rule, it is to be adjusted not to the number of *inhabitants*, but of *Representatives*.

Mr. Sherman opposed the motion. He thought the Legislature ought to be left at liberty: in which case they would probably conform to the principles observed by Congs.

Mr. Mason did not know that Virga. would be a loser by the proposed regulation, but had some scruple as to the justice of it. He doubted much whether the conjectural rule which was to precede the Census, would be as just, as it would be rendered by an actual census.

Mr. Elseworth & Mr. Sherman moved to postpone the motion of Mr. Gerry. On ye. question, it passed in the negative. Mass. no. Cont. ay. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no.

Question on Mr. Gerry's motion, it passed in the negative, the States being equally divided.

Mass. ay. Con.t no. N. J. no. *P.a ay.* Del. no. M.d no. *V.a no.* N. C. ay. S. C. ay. Geo. ay.

M.r Gerry finding that the loss of the question had proceeded from an objection with some, to the proposed assessment of direct taxes on the *inhabitants* of the States, which might restrain the Legislature to a poll tax, moved his proposition again, but so varied as to authorize the assessment on the *States*, which leaves the mode to the Legislature, viz "that from the 1.st meeting of the Legislature of the U. S. untill a census shall be taken, all monies for supplying the public Treasury by direct taxation shall be raised from the said several States according to the number of their representatives respectively in the 1.st branch."

On this varied question, it passed in the affirmative

Mas. ay. Con.t no. N. J. no. *P.a div.d* Del. no. M.d no. *V.a ay* N. C. ay. S. C. ay. Geo. ay.

On the motion of M.r Randolph, the vote of saturday last authorizing the Legisl.re to adjust from time to time, the representation upon the principles of *wealth* & numbers of inhabitants, was reconsidered by common consent in order to strike out "Wealth" and adjust the resolution to that requiring periodical revisions, according to the number of whites & three fifths of the blacks: the motion was in the words following:—"But as the present situation of the States may probably alter in the number of their inhabitants, that the Legislature of the U. S. be authorized from time to time to apportion the number

of representatives; and in case any of the States shall hereafter be divided or any two or more States united or new States created within the limits of the U. S. the Legislature of U. S. shall possess authority to regulate the number of Representatives in any of the foregoing cases, upon the principle of their number of inhabitants; according to the provisions hereafter mentioned."

Mr. Gov.r Morris opposed the alteration as leaving still incoherence. If Negroes were to be viewed as inhabitants, and the revision was to proceed on the principle of numbers of inhab.ts they ought to be added in their entire number, and not in the proportion of $\frac{3}{5}$. If as property, the word wealth was right, and striking it out would produce the very inconsistency which it was meant to get rid of.—The train of business & the late turn which it had taken, had led him he said, into deep meditation on it, and He w.d candidly state the result. A distinction had been set up & urged, between the N.n and South.n States. He had hitherto considered this doctrine as heretical. He still thought the distinction groundless. He sees however that it is persisted in, and the South.n Gentlemen will not be satisfied unless they see the way open to their gaining a majority in the public Councils. The consequence of such a transfer of power from the maritime to the interior & landed interest will he foresees be such an oppression of commerce that he shall be obliged to vote for y.e vicious principle of equality in the 2.d branch in order to provide some defence for the N. States ag.st it. But to come

more to the point; either this distinction is fictitious or real; if fictitious let it be dismissed & let us proceed with due confidence. If it be real, instead of attempting to blend incompatible things, let us at once take a friendly leave of each other. There can be no end of demands for security if every particular interest is to be entitled to it. The Eastern States may claim it for their fishery, and for other objects, as the South^n States claim it for their peculiar objects. In this struggle between the two ends of the Union, what part ought the middle States in point of policy to take: to join their Eastern brethren according to his ideas. If the South^n States get the power into their hands, and be joined as they will be with the interior Country, they will inevitably bring on a war with Spain for the Mississippi. This language is already held. The interior Country having no property nor interest exposed on the sea, will be little affected by such a war. He wished to know what security the North^n & middle States will have ag^st this danger. It has been said that N. C. S. C., and Georgia only will in a little time have a majority of the people of America. They must in that case include the great interior Country, and every thing was to be apprehended from their getting the power into their hands.

Mr Butler. The security the South^n States want is that their negroes may not be taken from them, which some gentlemen within or without doors, have a very good mind to do. It was not supposed that N. C. S. C. & Geo. would have more people than all

the other States, but many more relatively to the other States than they now have. The people & strength of America are evidently bearing Southwardly & S. westw^{dly}.

Mr Wilson. If a general declaration would satisfy any gentleman he had no indisposition to declare his sentiments. Conceiving that all men wherever placed have equal rights and are equally entitled to confidence, he viewed without apprehension the period when a few States should contain the superior number of people. The majority of people wherever found ought in all questions to govern the minority. If the interior Country should acquire this majority, it will not only have the right, but will avail itself of it whether we will or no. This jealousy misled the policy of G. Britain with regard to America. The fatal maxims espoused by her were that the Colonies were growing too fast, and that their growth must be stinted in time. What were the consequences?, first, enmity on our part, then actual separation. Like consequences will result on the part of the interior settlements, if like jealousy & policy be pursued on ours. Further, if numbers be not a proper rule, why is not some better rule pointed out. No one has yet ventured to attempt it. Cong^{s} have never been able to discover a better. No State as far as he had heard, had suggested any other. In 1783, after elaborate discussion of a measure of wealth all were satisfied then as they are now that the rule of numbers, does not differ much from the combined rule of numbers & wealth. Again he

could not agree that property was the sole or primary object of Gov.t & society. The cultivation & improvement of the human mind was the most noble object. With respect to this object, as well as to other *personal* rights, numbers were surely the natural & precise measure of Representation. And with respect to property, they could not vary much from the precise measure. In no point of view however could the establishm.t of numbers as the rule of representation in the 1.st branch vary his opinion as to the impropriety of letting a vicious principle into the 2.d branch.—On the Question to strike out *Wealth*, & to make the change as moved by M.r Randolph, it passed in the affirmative.

Mas. ay. Con.t ay. N. J. ay. P.a ay. Del div.d M.d ay. V.a ay. N. C. ay. S. C. ay. Geo. ay.

M.r Reed moved to insert after the word "divided," "or enlarged by addition of territory" which was agreed to nem con. (his object probably was to provide for such cases as an enlargem.t of Delaware by annexing to it the Peninsula on the East side of the Chesapeak.)

Adjourned.

SATURDAY, JULY 14. IN CONVENTION.

M.r L. Martin called for the question on the whole report, including the parts relating to the origination of money bills, and the equality of votes in the 2.d branch.

M.r Gerry, wished before the question should be

put, that the attention of the House might be turned to the dangers apprehended from Western States. He was for admitting them on liberal terms, but not for putting ourselves in their hands. They will if they acquire power like all men, abuse it. They will oppress commerce, and drain our wealth into the Western Country. To guard ag^st these consequences, he thought it necessary to limit the number of new States to be admitted into the Union, in such a manner, that they should never be able to outnumber the Atlantic States. He accordingly moved "that in order to secure the liberties of the States already confederated, the number of Representatives in the 1st branch, of the States which shall hereafter be established, shall never exceed in number, the Representatives from such of the States as shall accede to this Confederation.

Mr King, seconded the motion.

Mr Sherman, thought there was no probability that the number of future States would exceed that of the Existing States. If the event should ever happen, it was too remote to be taken into consideration at this time. Besides We are providing for our posterity, for our children & our grand Children; who would be as likely to be citizens of new Western States, as of the old States. On this consideration alone, we ought to make no such discrimination as was proposed by the motion.

Mr Gerry. If some of our children should remove, others will stay behind, and he thought it incumbent on us to provide for their interests. There was a

rage for emigration from the Eastern States to the Western Country, and he did not wish those remaining behind to be at the mercy of the emigrants. Besides foreigners are resorting to that Country, and it is uncertain what turn things may take there.—On the question for agreeing to the Motion of Mr. Gerry, it passed in the negative.

Mass. ay. Conct. ay. N. J. no. Pa. divd. Del. ay. Md. ay. Va. no. N. C. no. S. C. no. Geo. no.

Mr. Rutlidge proposed to reconsider the two propositions touching the originating of money bills in the first & the equality of votes in the second branch.

Mr. Sherman was for the question on the whole at once. It was he said a conciliatory plan, it had been considered in all its parts, a great deal of time had been spent upon it, and if any part should now be altered, it would be necessary to go over the whole ground again.

Mr. L. Martin urged the question on the whole. He did not like many parts of it. He did not like having two branches, nor the inequality of votes in the 1st. branch. He was willing however to make trial of the plan, rather than do nothing.

Mr. Wilson traced the progress of the report through its several stages, remarking yt. when on the question concerning an equality of votes, the House was divided, our Constituents had they voted as their representatives did, would have stood as $\frac{2}{3}$ agst. the equality, and $\frac{1}{3}$ only in favor of it. This fact would ere long be known, and it will appear that this fundamental point has been carried by $\frac{1}{3}$ agst. $\frac{2}{3}$.

What hopes will our Constituents entertain when they find that the essential principles of justice have been violated in the outset of the Governm.t As to the privilege of originating money bills, it was not considered by any as of much moment, and by many as improper in itself. He hoped both clauses w.d be reconsidered. The equality of votes was a point of such critical importance, that every opportunity ought to be allowed, for discussing and collecting the mind of the Convention upon it.

M.r L. Martin denies that there were ⅔ ag.st the equality of votes. The States that please to call themselves large, are the weekest in the Union. Look at Mas.ts Look at Virg.a Are they efficient States? He was for letting a separation take place if they desired it. He had rather there should be two Confederacies, than one founded on any other principle than an equality of votes in the 2.d branch at least.

M.r Wilson was not surprised that those who say that a minority is more than a majority should say the minority is stronger than the majority. He supposed the next assertion will be that they are richer also; though he hardly expected it would be persisted in when the States shall be called on for taxes & troops.

M.r Gerry also animadverted on M.r L. Martins remarks on the weakness of Mas.ts He favored the reconsideration with a view not of destroying the equality of votes; but of providing that the States should vote per Capita, which he said would prevent the delays & inconveniences that had been experi-

enced in Cong.s and would give a national aspect & Spirit to the management of business. He did not approve of a reconsideration of the clause relating to money bills. It was of great consequence. It was the corner stone of the accommodation. If any member of the Convention had the exclusive privilege of making propositions, would any one say that it would give him no advantage over other members. The Report was not altogether to his mind. But he would agree to it as it stood rather than throw it out altogether.

The reconsideration being tacitly agreed to

Mr. Pinkney moved that instead of an equality of votes, the States should be represented in the 2d. branch as follows: N. H. by 2 members. Mass. 4. R. I. 1. Cont. 3. N. Y. 3. N. J. 2. Pa. 4. Del. 1; Md. 3. Virg.a 5. N. C. 3. S. C. 3. Geo. 2. making in the whole 36.

Mr. Wilson seconds the motion

Mr. Dayton. The smaller States can never give up their equality. For himself he would in no event yield that security for their rights.

Mr. Sherman, urged the equality of votes not so much as a Security for the small States; as for the State Govts. which could not be preserved unless they were represented & had a negative in the Genl. Government. He had no objection to the members in the 2d. b. voting per capita, as had been suggested by (Mr. Gerry).

Mr. Madison concurred in this motion of Mr. Pinkney as a reasonable compromise.

Mr Gerry said he should like the motion, but could see no hope of success. An accommodation must take place, and it was apparent from what had been seen that it could not do so on the ground of the motion. He was utterly against a partial confederacy, leaving other States to accede or not accede, as had been intimated.

Mr King said it was always with regret that he differed from his colleagues, but it was his duty to differ from (Mr Gerry) on this occasion. He considered the proposed Government as substantially and formally, a General and National Government over the people of America. There never will be a case in which it will act as a federal Government on the States and not on the individual Citizens. And is it not a clear principle that in a free Gov^t those who are to be the objects of a Gov^t ought to influence the operations of it? What reason can be assigned why the same rule of representation s^d not prevail in the 2^d branch as in the 1st? He could conceive none. On the contrary, every view of the subject that presented itself, seemed to require it. Two objections had been raised ag^st it, drawn 1. from the terms of the existing compact. 2. from a supposed danger to the smaller States.—As to the first objection he thought it inapplicable. According to the existing Confederation, the rule by which the public burdens is to be apportioned is *fixed*, and must be pursued. In the proposed Govern^t it cannot be fixed, because indirect taxation is to be substituted. The Legislature therefore will have full discretion to impose taxes in

such modes & proportions as they may judge expedient. As to the 2d objection, he thought it of as little weight. The Genl Governt can never wish to intrude on the State Governts There could be no temptation. None had been pointed out. In order to prevent the interference of measures which seemed most likely to happen, he would have no objection to throwing all the State debts into the federal debt, making one aggregate debt of about 70,000,000 of dollars, and leaving it to be discharged by the Genl Govt According to the idea of securing the State Govts there ought to be three distinct legislative branches. The 2d was admitted to be necessary, and was actually meant, to check the 1st branch, to give more wisdom, system, & stability to the Govt and ought clearly as it was to operate on the people, to be proportioned to them. For the third purpose of securing the States, there ought then to be a 3d branch, representing the States as such, and guarding by equal votes their rights & dignities. He would not pretend to be as thoroughly acquainted with his immediate Constituents as his colleagues, but it was his firm belief that Masts would never be prevailed on to yield to an equality of votes. In N. York, (he was sorry to be obliged to say any thing relative to that State in the absence of its representatives, but the occasion required it), in N. York he had seen that the most powerful argument used by the considerate opponents to the grant of the Impost to Congress, was pointed agst the vicious constitution of Congs with regard to representation & suffrage. He was sure

that no Gov^{t} could last that was not founded on just principles. He preferred the doing of nothing, to an allowance of an equal vote to all the States. It would be better he thought to submit to a little more confusion & convulsion, than to submit to such an evil. It was difficult to say what the views of different Gentlemen might be. Perhaps there might be some who thought no Governm^{t} co-extensive with the U. States could be established with a hope of its answering the purpose. Perhaps there might be other fixed opinions incompatible with the object we are pursuing. If there were, he thought it but candid that Gentlemen should speak out that we might understand one another.

Mr Strong. The Convention had been much divided in opinion. In order to avoid the consequences of it, an accommodation had been proposed. A Committee had been appointed: and though some of the members of it were averse to an equality of votes, a Report had been made in favor of it. It is agreed on all hands that Congress are nearly at an end. If no Accommodation takes place, the Union itself must soon be dissolved. It has been suggested that if we cannot come to any general agreement, the principal States may form & recommend a Scheme of Government. But will the small States in that case ever accede it. Is it probable that the large States themselves will under such circumstances embrace and ratify it. He thought the small States had made a considerable concession in the article of money bills, and that they might naturally expect

some concessions on the other side. From this view of the matter he was compelled to give his vote for the Report taken altogether.

Mr Madison expressed his apprehensions that if the proper foundation of Governmt was destroyed, by substituting an equality in place of a proportional Representation, no proper superstructure would be raised. If the small States really wish for a Government armed with the powers necessary to secure their liberties, and to enforce obedience on the larger members as well as themselves he could not help thinking them extremely mistaken in their means. He reminded them of the consequences of laying the existing Confederation on improper principles. All the principal parties to its compilation joined immediately in mutilating & fettering the Governmt in such a manner that it has disappointed every hope placed in it. He appealed to the doctrine & arguments used by themselves on a former occasion. It had been very properly observed by (Mr Patterson) that Representation was an expedient by which the meeting of the people themselves was rendered unnecessary; And that the representatives ought therefore to bear a proportion to the votes which their constituents if convened would respectively have Was not this remark as applicable to one branch of the Representation as to the other? But it had been said that the Governt would in its operation be partly federal, partly national; that altho' in the latter respect the Representatives of the people ought to be in proportion to the people; yet in the

former it ought to be according to the number of States. If there was any solidity in this distinction he was ready to abide by it, if there was none it ought to be abandoned. In all cases where the Gen.l Governm.t is to act on the people, let the people be represented and the votes be proportional. In all cases where the Govern.t is to act on the States as such in like manner as Cong.s now acts on them, let the States be represented & the votes be equal. This was the true ground of compromise if there was any ground at all. But he denied that there was any ground. He called for a single instance in which the Gen.l Gov.t was not to operate on the people individually. The practicability of making laws, with coercive sanctions, for the States as Political bodies, had been exploded on all hands. He observed that the people of the large States would in some way or other secure to themselves a weight proportioned to the importance accruing from their superior numbers. If they could not effect it by a proportional representation in the Gov.t they would probably accede to no Gov.t which did not in a great measure depend for its efficacy on their voluntary cooperation; in which case they would indirectly secure their object. The existing confederacy proved that where the Acts of the Gen.l Gov.t were to be executed by the particular Gov.ts the latter had a weight in proportion to their importance. No one would say that either in Cong.s or out of Cong.s Delaware had equal weight with Pennsylv.a If the latter was to supply ten times as much money as the former, and no compulsion could

be used, it was of ten times more importance, that she should voluntarily furnish the supply. In the Dutch confederacy the votes of the Provinces were equal. But Holland which supplies about half the money, governed the whole republic. He enumerated the objections agst an equality of votes in the 2^{d} branch, notwithstanding the proportional representation in the first. 1. the minority could negative the will of the majority of the people. 2. they could extort measures by making them a condition of their assent to other necessary measures. 3. they could obtrude measures on the majority by virtue of the peculiar powers which would be vested in the Senate. 4. the evil instead of being cured by time, would increase with every new State that should be admitted, as they must all be admitted on the principle of equality. 5. the perpetuity it would give to the preponderance of the North^{n} agst the South^{n} Scale was a serious consideration. It seemed now to be pretty well understood that the real difference of interests lay, not between the large & small but between the N. & South^{n} States. The institution of slavery & its consequences formed the line of discrimination. There were 5 States on the South, 8 on the North^{n} side of this line. Should a proport^{l} representation take place it was true, the N. side would still outnumber the other; but not in the same degree, at this time; and every day would tend towards an equilibrium.

Mr Wilson would add a few words only. If equality in the 2^{d} branch was an error that time would

correct, he should be less anxious to exclude it being sensible that perfection was unattainable in any plan; but being a fundamental and a perpetual error, it ought by all means to be avoided. A vice in the Representation, like an error in the first concoction, must be followed by disease, convulsions, and finally death itself. The justice of the general principle of proportional representation has not in argument at least been yet contradicted. But it is said that a departure from it so far as to give the States an equal vote in one branch of the Legislature is essential to their preservation. He had considered this position maturely, but could not see its application. That the States ought to be preserved he admitted. But does it follow that an equality of votes is necessary for the purpose? Is there any reason to suppose that if their preservation should depend more on the large than on the small States the security of the States ag^st^ the Genl Government would be diminished? Are the large States less attached to their existence more likely to commit suicide, than the small? An equal vote then is not necessary as far as he can conceive: and is liable among other objections to this insuperable one: The great fault of the existing confederacy is its inactivity. It has never been a complaint ag^st^ Cong^s^ that they governed over much. The complaint has been that they have governed too little. To remedy this defect we were sent here. Shall we effect the cure by establishing an equality of votes as is proposed? no: this very equality carries us directly to Congress; to the

system which it is our duty to rectify. The small States cannot indeed act, by virtue of this equality, but they may controul the Gov.t as they have done in Cong.s This very measure is here prosecuted by a minority of the people of America. Is then the object of the Convention likely to be accomplished in this way? Will not our Constituents say? we sent you to form an efficient Gov.t and you have given us one more complex indeed, but having all the weakness of the former govern.t He was anxious for uniting all the States under one Govern.t He knew there were some respectable men who preferred three confederacies, united by offensive & defensive alliances. Many things may be plausibly said, some things may be justly said, in favor of such a project. He could not however concur in it himself; but he thought nothing so pernicious as bad first principles.

Mr. Elseworth asked two questions, one of Mr. Wilson, whether he had ever seen a good measure fail in Cong.s for want of a majority of States in its favor? He had himself never known such an instance: the other of Mr. Madison whether a negative lodged with the majority of the States even the smallest, could be more dangerous than the qualified negative proposed to be lodged in a single Executive Magistrate, who must be taken from some one State?

Mr. Sherman, signified that his expectation was that the Gen.l Legislature would in some cases act on the *federal principle*, of requiring quotas. But he thought it ought to be empowered to carry their own

plans into execution, if the States should fail to supply their respective quotas.

On the question for agreeing to Mr. Pinkney's motion for allowing N. H. 2. Mas. 4. &c—it passed in the negative,

Mass. no. Mr. King ay. Mr. Ghorum absent. Cont. no. N. J. no. Pa. ay. Del. no. Md. ay. Va. ay. N. C. no. S. C. ay. Geo. no.

Adjourned.[1]

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[1] "Memorandum.

"July 15, '87.

"About twelve days since the Convention appointed a Grand Comee, consisting of Gerry, Ellsworth, Yates, Paterson, Franklin, Bedford, Martin, Mason, Rutledge & Baldwin to adjust the Representation in the two Brs. of the Legislature of the U. S. They reported yt. every 40,000 Inhabs. taken agreeably to the Resolution of Cong. of ye 18 Ap. 1783, shd. send one member to the first Br. of the Legislature, yt. this Br. shd. originate exclusively Money Bills, & also originate ye appropriations of money; and that in ye Senate or upper Br. each State shd. have one vote & no more. The Representation as to the first Br. was twice recommitted altho' not to the same Committee; finally it was agreed yt Taxation of the direct sort & Representation shd. be in direct proportion with each other—that the first Br. shd. consist of 65 members, viz. N. H. 3, M. 8, R. I. 1, C. 5, N. Y. 6, N. J. 4, P. 8, D. 1, M. 6, V. 10, N. C. 5, S. C. 5, G. 3,—and that the origination of money Bills and the Appropriations of money shd. belong in the first instance to yt. Br., but yt in the Senate or 2nd Br. each State shd. have an equal Vote. In this situation of the Report it was moved by S. Car. that in the formation of the 2nd Br., instead of an equality of Votes among the States, that N. H. shd. have 2, M. 4, R. I. 1, C. 3, N. Y. 3, N. J. 2, P. 4, D. 1, M. 3, V. 5, N. C. 3, S. C. 3, G. 2 = total 36.

"On the question to agree to this apportionment, instead of the equality (Mr. Gorham being absent) Mass., Con., N. Jer., Del., N. Car., & Georg—No. Penn., Mar., Virg. & S. Car. Aye.

"This Question was taken and to my mortification by the vote of Mass. lost on the 14th July.

"(endorsed 'inequality lost by vote of Mass.')"—King's note, King's *Life and Correspondence of Rufus King*, I., 615.

MONDAY, JULY 16. IN CONVENTION.

On the question for agreeing to the whole Report as amended & including the equality of votes in the 2d branch, it passed in the affirmative.

Mass. divided Mr Gerry, Mr Strong. ay. Mr King, Mr Ghorum no. Contt ay. N. J. ay. Penna no. Del. ay. Md ay. Va no. N. C. ay. Mr Spraight no S. C. no Geo. no.

The whole thus passed is in the words following, viz. "Resolved, that in the orginal formation of the Legislature of the U. S. the first branch thereof shall consist of sixty five members, of which number N. Hampshire shall send 3. Masstts 8. Rh. I. 1. Connt 5. N. Y. 6. N. J. 4. Penna 8. Del. 1. Maryd 6. Virga 10. N. C. 5. S. C. 5. Geo. 3.—But as the present situation of the States may probably alter in the number of their inhabitants, the Legislature of the U. S. shall be authorized from time to time to apportion the number of Reps and in case any of the States shall hereafter be divided, or enlarged by addition of territory, or any two or more States united, or any new States created within the limits of the U. S. the Legislature of the U. S. shall possess authority to regulate the number of Reps in any of the foregoing cases, upon the principle of their number of inhabitants, according to the provisions hereafter mentioned. namely—provided always that representation ought to be proportioned according to direct taxation; and in order to ascertain the alteration in the direct taxation, which may be re-

quired from time to time by the changes in the relative circumstances of the States—

Resolved, that a Census be taken within six years from the 1st meeting of the Legislature of the U. S., and once within the term of every 10 years afterwards of all the inhabitants of the U. S. in the manner and according to the ratio recommended by Congress in their Resolution of April 18. 1783, and that the Legislature of the U. S. shall proportion the direct taxation accordingly—

Resolved, that all bills for raising or appropriating money, and for fixing the salaries of officers of the Gov.t of the U. S. shall originate in the first branch of the Legislature of the U. S. and shall not be altered or amended in the 2d branch: and that no money shall be drawn from the Public Treasury, but in pursuance of appropriations to be originated in the 1st branch.

Resolv.d, that in the 2d branch of the Legislature of the U. S., each State shall have an equal vote.

The 6th Resol: in the Report from the Com.e of the whole House, which had been postponed in order to consider the 7 & 8th Resol.ns; was now resumed. see the Resol.n:

The 1st member "That the Nat.l Legislature ought to possess the Legislative Rights vested in Cong.s by the Confederation" was agreed to nem. con.

The next, "And moreover to legislate in all cases to which the separate States are incompetent; or in which the harmony of the U. S. may be interrupted

by the exercise of individual legislation," being read for a question

Mr. Butler calls for some explanation of the extent of this power; particularly of the word *incompetent*. The vagueness of the terms rendered it impossible for any precise judgment to be formed.

Mr. Ghorum. The vagueness of the terms constitutes the propriety of them. We are now establishing general principles, to be extended hereafter into details which will be precise & explicit.

Mr. Rutlidge, urged the objection started by Mr. Butler and moved that the clause should be committed to the end that a specification of the powers comprised in the general terms, might be reported.

On the question for commitment, the States were equally divided

Mas. no. Con.t ay. N. J. no. Pa. no. Del. no. Md. ay. Va. ay. N. C. no. S. C. ay. Geo. ay: So it was lost.

Mr. Randolph. The vote of this morning (involving an equality of suffrage in 2d branch) had embarrassed the business extremely. All the powers given in the Report from the Com.e of the whole, were founded on the supposition that a Proportional representation was to prevail in both branches of the Legislature. When he came here this morning his purpose was to have offered some propositions that might if possible have united a great majority of votes, and particularly might provide ag.st the danger suspected on the part of the smaller States, by enumerating the cases in which it might lie, and allowing

an equality of votes in such cases.[1] But finding from the Preceding vote that they persist in demanding an equal vote in all cases, that they have succeeded in obtaining it, and that N. York, if present would probably be on the same side, he could not but think we were unprepared to discuss this subject further. It will probably be in vain to come to any final decision with a bare majority on either side. For these reasons he wished the Convention might adjourn, that the large States might consider the steps proper to be taken in the present solemn crisis of the business, and that the small States might also deliberate on the means of conciliation.

Mr Patterson, thought with Mr R. that it was high time for the Convention to adjourn that the rule of secrecy ought to be rescinded, and that our Constituents should be consulted. No conciliation could be admissible on the part of the smaller States on any other ground than that of an equality of votes in the 2d branch. If Mr Randolph would reduce to form his motion for an adjournment sine die, he would second it with all his heart.

Genl Pinkney wished to know of Mr R. whether he meant an adjournment sine die, or only an adjournment for the day. If the former was meant, it differed much from his idea. He could not think of going to S. Carolina and returning again to this place. Besides it was chimerical to suppose that the States if consulted would ever accord separately, and beforehand.

[1] See the paper, in the appendix, communicated by Mr R. to J. M. July 10. Note in Madison's hand.

Mr Randolph, had never entertained an idea of an adjournment sine die; & was sorry that his meaning had been so readily & strangely misinterpreted. He had in view merely an adjournment till to-morrow, in order that some conciliatory experiment might if possible be devised, and that in case the smaller States should continue to hold back, the larger might then take such measures, he would not say what, as might be necessary.

Mr Patterson seconded the adjournment till to-morrow, as an opportunity seemed to be wished by the larger States to deliberate further on conciliatory expedients.

On the question for adjourning till tomorrow, the States were equally divided,

Mas. no. Con^t no. N. J. ay. P^a ay. Del. no. M^d ay. V^a ay. N. C. ay. S. C. no. Geo. no, so it was lost.

Mr Broome thought it his duty to declare his opinion ag^st an adjournment sine die, as had been urged by Mr Patterson. Such a measure he thought would be fatal. Something must be done by the Convention, tho' it should be by a bare majority.

Mr Gerry observed that Mas^ts was opposed to an adjournment, because they saw no new ground of compromise. But as it seemed to be the opinion of so many States that a trial sh^d be made, the State would now concur in the adjournm^t

Mr Rutlidge could see no need of an adjourn^t because he could see no chance of a compromise. The little States were fixt. They had repeatedly &

solemnly declared themselves to be so. All that the large States then had to do was to decide whether they would yield or not. For his part he conceived that altho' we could not do what we thought best, in itself, we ought to do something. Had we not better keep the Gov.t up a little longer, hoping that another Convention will supply our omissions, than abandon every thing to hazard. Our Constituents will be very little satisfied with us if we take the latter course.

Mr. Randolph & Mr. King renewed the motion to adjourn till tomorrow.

On the question. Mas. ay. Con.t no. N. J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. div.d

Adjourned

On the morning following before the hour of the Convention a number of the members from the larger States, by common agreement met for the purpose of consulting on the proper steps to be taken in consequence of the vote in favor of an equal Representation in the 2.d branch, and the apparent inflexibility of the smaller States on that point. Several members from the latter States also attended. The time was wasted in vague conversation on the subject, without any specific proposition or agreement. It appeared indeed that the opinions of the members who disliked the equality of votes differed much as to the importance of that point, and as to the policy of risking a failure of any general act of the Convention by inflexibly opposing it. Several of them

supposing that no good Governm^{t} could or would be built on that foundation, and that as a division of the convention into two opinions was unavoidable; it would be better that the side comprising the principal States, and a majority of the people of America, should propose a scheme of Gov^{t} to the States, than that a scheme should be proposed on the other side, would have concurred in a firm opposition to the smaller States, and in a separate recommendation, if eventually necessary. Others seemed inclined to yield to the smaller States, and to concur in such an Act however imperfect & exceptionable, as might be agreed on by the Convention as a body, tho' decided by a bare majority of States and by a minority of the people of the U. States. It is probable that the result of this consultation satisfied the smaller States that they had nothing to apprehend from a Union of the larger, in any plan whatever agst the equality of votes in the 2^{d} branch.

TUESDAY JULY 17. IN CONVENTION.

Mr Govern^{r} Morris. moved to reconsider the whole Resolution agreed to yesterday concerning the constitution of the 2 branches of the Legislature. His object was to bring the House to a consideration in the abstract of the powers necessary to be vested in the general Government. It had been said, Let us know how the Gov^{t} is to be modelled, and then we can determine what powers can be properly given to it. He thought the most eligible course was, first

to determine on the necessary powers, and then so to modify the Govern^t as that it might be justly & properly enabled to administer them. He feared if we proceeded to a consideration of the powers, whilst the vote of yesterday including an equality of the States in the 2^d branch, remained in force, a reference to it, either mental or expressed, would mix itself with the merits of every question concerning the powers.—This motion was not seconded. (It was probably approved by several members who either despaired of success, or were apprehensive that the attempt would inflame the jealousies of the smaller States.)

The 6th Resol^n in the Report of the Com^e of the Whole relating to the powers, which had been postponed in order to consider the 7 & 8th relating to the constitution of the Nat^l Legislature, was now resumed.

Mr Sherman observed that it would be difficult to draw the line between the powers of the Genl Legislature, and those to be left with the States; that he did not like the definition contained in the Resolution, and proposed in place of the words "individual legislation" line 4. inclusive, to insert "to make laws binding on the people of the United States in all cases which may concern the common interests of the Union; but not to interfere with the Government of the individual States in any matters of internal police which respect the Gov^t of such States only, and wherein the general welfare of the U. States is not concerned."

Mr. Wilson 2ded. the amendment as better expressing the general principle.

Mr. Govr. Morris opposed it. The internal police, as it would be called & understood by the States ought to be infringed in many cases, as in the case of paper money & other tricks by which Citizens of other States may be affected.

Mr. Sherman, in explanation of his idea read an enumeration of powers, including the power of levying taxes on trade, but not the power of *direct taxation.*

Mr. Govr. Morris remarked the omission, and inferred that for the deficiencies of taxes on consumption, it must have been the meaning of Mr. Sherman, that the Genl. Govt. should recur to quotas & requisitions, which are subversive of the idea of Govt.

Mr. Sherman acknowledged that his enumeration did not include direct taxation. Some provision he supposed must be made for supplying the deficiency of other taxation, but he had not formed any.

On Question on Mr. Sherman's motion it passed in the negative

Mas. no. Contt. ay. N. J. no. Pa. no. Del. no. Md. ay. Va. no. N. C. no. S. C. no. Geo. no.

Mr. Bedford moved that the 2d. member of Resolution 6. be so altered as to read, "and moreover to legislate in all cases for the general interests of the Union, and also in those to which the States are severally incompetent, "or in which the harmony of the U. States may be interrupted by the exercise of individual Legislation."

Mr. Gov.r Morris 2ds the motion

Mr. Randolph. This is a formidable idea indeed. It involves the power of violating all the laws and constitutions of the States, and of intermeddling with their police. The last member of the sentence is also superfluous, being included in the first.

Mr. Bedford. It is not more extensive or formidable than the clause as it stands: *no State* being *separately* competent to legislate for the *general interest* of the Union.

On question for agreeing to Mr. Bedford's motion it passed in the affirmative.

Mas. ay. Con.t no. N. J. ay. Pa. ay. Del. ay. Md. ay. Va. no. N. C. ay. S. C. no. Geo. no.

On the sentence as amended, it passed in the affirmative.

Mas. ay. Con.t ay. N. J. ay. Pa. ay. Del. ay. Md ay. Va. ay. N. C. ay. S. C. no. Geo. no.

The next. "To negative all laws passed by the several States contravening in the opinion of the Nat: Legislature the articles of Union, or any treaties subsisting under the authority of ye. Union."

Mr. Gov.r Morris opposed this power as likely to be terrible to the States, and not necessary, if sufficient Legislative authority should be given to the Gen.l Government.

Mr. Sherman thought it unnecessary; as the Courts of the States would not consider as valid any law contravening the Authority of the Union, and which the legislature would wish to be negatived.

Mr. L. Martin considered the power as improper &

inadmissible. Shall all the laws of the States be sent up to the Gen.l Legislature before they shall be permitted to operate?

Mr. Madison, considered the negative on the laws of the States as essential to the efficacy & security of the Gen.l Gov.t The necessity of a general Gov.t proceeds from the propensity of the States to pursue their particular interests in opposition to the general interest. This propensity will continue to disturb the system, unless effectually controuled. Nothing short of a negative on their laws will controul it. They will pass laws which will accomplish their injurious objects before they can be repealed by the Gen.l Legisl.re or be set aside by the National Tribunals. Confidence can not be put in the State Tribunals as guardians of the National authority and interests. In all the States these are more or less depend.t on the Legislatures. In Georgia they are appointed annually by the Legislature. In R. Island the Judges who refused to execute an unconstitutional law were displaced, and others substituted, by the Legislature who would be the willing instruments of the wicked & arbitrary plans of their masters. A power of negativing the improper laws of the States is at once the most mild & certain means of preserving the harmony of the system. Its utility is sufficiently displayed in the British system. Nothing could maintain the harmony & subordination of the various parts of the empire, but the prerogative by which the Crown, stifles in the birth every Act of every part tending to discord or encroachment. It

is true the prerogative is sometimes misapplied thro' ignorance or a partiality to one particular part of ye empire; but we have not the same reason to fear such misapplications in our System. As to the sending all laws up to the Nat^l Legisl: that might be rendered unnecessary by some emanation of the power into the States, so far at least as to give a temporary effect to laws of immediate necessity.

Mr Govr Morris was more & more opposed to the negative. The proposal of it would disgust all the States. A law that ought to be negatived will be set aside in the Judiciary departm^t and if that security should fail; may be repealed by a Nation^l law.

Mr Sherman. Such a power involves a wrong principle, to wit, that a law of a State contrary to the articles of the Union would if not negatived, be valid & operative.

Mr Pinkney urged the necessity of the Negative.

On the question for agreeing to the power of negativing laws of States &c. it passed in the negative.

Mas. ay. C^t no. N. J. no. P^a no. Del. no. M^d no. V^a ay. N. C. ay. S. C. no. Geo. no.

Mr Luther Martin moved the following resolution "that the Legislative acts of the U. S. made by virtue & in pursuance of the articles of Union, and all Treaties made & ratified under the authority of the U. S. shall be the supreme law of the respective States, as far as those acts or treaties shall relate to the said States, or their Citizens and inhabitants—& that the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the

respective laws of the individual States to the contrary notwithstanding" which was agreed to nem: con:

9th Resol: "that Natl Executive consist of a single person," Agd to nem. con.

"To be chosen by the National Legisl:"

Mr Governr Morris was pointedly agst his being so chosen. He will be the mere creature of the Legisl: if appointed & impeachable by that body. He ought to be elected by the people at large, by the freeholders of the Country. That difficulties attend this mode, he admits. But they have been found superable in N. Y. & in Conct and would he believed be found so, in the case of an Executive for the U. States. If the people should elect, they will never fail to prefer some man of distinguished character, or services; some man, if he might so speak, of continental reputation. If the Legislature elect, it will be the work of intrigue, of cabal, and of faction; it will be like the election of a pope by a conclave of cardinals; real merit will rarely be the title to the appointment. He moved to strike out "National Legislature," & insert "citizens of the U. S."

Mr Sherman thought that the sense of the Nation would be better expressed by the Legislature, than by the people at large. The latter will never be sufficiently informed of characters, and besides will never give a majority of votes to any one man. They will generally vote for some man in their own State, and the largest State will have the best chance for the appointment. If the choice be made by the

Legisl.re a majority of voices may be made necessary to constitute an election.

M.r Wilson. Two arguments have been urged ag.st an election of the Executive Magistrate by the people. 1 the example of Poland where an Election of the supreme Magistrate is attended with the most dangerous commotions. The cases he observed were totally dissimilar. The Polish nobles have resources & dependants which enable them to appear in force, and to threaten the Republic as well as each other. In the next place the electors all assemble in one place; which would not be the case with us. The 2.d arg.t is that a *majority* of the people would never concur. It might be answered that the concurrence of a majority of the people is not a necessary principle of election, nor required as such in any of the States. But allowing the objection all its force, it may be obviated by the expedient used in Mass.ts, where the Legislature by majority of voices, decide in case a majority of people do not concur in favor of one of the candidates. This would restrain the choice to a good nomination at least, and prevent in a great degree intrigue & cabal. A particular objection with him ag.st an absolute election by the Legisl.re was that the Exec: in that case would be too dependent to stand the mediator between the intrigues & sinister views of the Representatives and the general liberties & interests of the people.

M.r Pinkney did not expect this question would again have been brought forward: An Election by the people being liable to the most obvious & striking

objections. They will be led by a few active & designing men. The most populous States by combining in favor of the same individual will be able to carry their points. The Nat.l Legislature being most immediately interested in the laws made by themselves, will be most attentive to the choice of a fit man to carry them properly into execution.

M.r Gov.r Morris. It is said that in case of an election by the people the populous States will combine & elect whom they please. Just the reverse. The people of such States cannot combine. If there be any combination it must be among their representatives in the Legislature. It is said the people will be led by a few designing men. This might happen in a small district. It can never happen throughout the continent. In the election of a Gov.r of N. York, it sometimes is the case in particular spots, that the activity & intrigues of little partizans are successful, but the general voice of the State is never influenced by such artifices. It is said the multitude will be uninformed. It is true they would be uninformed of what passed in the Legislative Conclave, if the election were to be made there; but they will not be uninformed of those great & illustrious characters which have merited their esteem & confidence. If the Executive be chosen by the Nat.l Legislature, he will not be independent on it; and if not independent, usurpation & tyranny on the part of the Legislature will be the consequence. This was the case in England in the last Century. It has been the case in Holland, where their Senates have engrossed all

power. It has been the case every where. He was surprised that an election by the people at large should ever have been likened to the polish election of the first Magistrate. An election by the Legislature will bear a real likeness to the election by the Diet of Poland. The great must be the electors in both cases, and the corruption & cabal wch are known to characterize the one would soon find their way into the other. Appointments made by numerous bodies, are always worse than those made by single responsible individuals, or by the people at large.

Col. Mason. It is curious to remark the different language held at different times. At one moment we are told that the Legislature is entitled to thorough confidence, and to indefinite power. At another, that it will be governed by intrigue & corruption, and cannot be trusted at all. But not to dwell on this inconsistency he would observe that a Government which is to last ought at least to be practicable. Would this be the case if the proposed election should be left to the people at large. He conceived it would be as unnatural to refer the choice of a proper character for Chief Magistrate to the people, as it would, to refer a trial of colours to a blind man. The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates.

Mr Wilson, could not see the contrariety stated (by Col. Mason.) The Legisl^re^ might deserve confidence

in some respects, and distrust in others. In acts which were to affect them & y^{r} Constituents precisely alike confidence was due. In others jealousy was warranted. The appointment to great offices, where the Legisl^{re} might feel many motives, not common to the public confidence was surely misplaced. This branch of business it was notorious, was the most corruptly managed of any that had been committed to legislative bodies.

Mr Williamson, conceived that there was the same difference between an election in this case, by the people and by the legislature, as between an app^{t} by lot, and by choice. There are at present distinguished characters, who are known perhaps to almost every man. This will not always be the case. The people will be sure to vote for some man in their own State, and the largest State will be sure to succeed. This will not be Virg^{a} however. Her slaves will have no suffrage. As the Salary of the Executive will be fixed, and he will not be eligible a 2^{d} time, there will not be such a dependence on the Legislature as has been imagined.

Question on an election by the people instead of the Legislature, which passed in the negative.

Mas. no. Con^{t} no. N. J. no. P^{a} ay. Del. no. M^{d} no. V^{a} no. N. C. no. S. C. no. Geo. no.

Mr L. Martin moved that the Executive be chosen by Electors appointed by the several Legislatures of the individual States.

Mr Broome 2^{ds} On the Question, it passed in the negative

Mas. no. Con.t no. N. J. no. P.a no. Del. ay. M.d ay. V.a no. N. C. no. S. C. no. Geo. no.

On the question on the words, "to be chosen by the Nation.l Legislature" it passed unanimously in the affirmative

"For the term of seven years"—postponed nem. con. on motion of M.r Houston and Gov. Morris

"to carry into execution the nation.l laws"—agreed to nem. con.

"to appoint to offices in cases not otherwise provided for,"—agreed to nem. con.

"to be ineligible a second time"—M.r Houston moved to strike out this clause.

M.r Sherman 2.ds the motion.

M.r Gov.r Morris espoused the motion. The ineligibility proposed by the clause as it stood tended to destroy the great motive to good behavior, the hope of being rewarded by a re-appointment. It was saying to him, make hay while the sun shines.

On the question for striking out, as moved by M.r Houston, it passed in the affirmative

Mas. ay. Con.t ay. N. J. ay. P.a ay. Del. no. M.d ay. V.a no. N. C. no. S. C. no. Geo. ay.

"For the term of 7 years," resumed.

M.r Broom was for a shorter term since the Executive Magistrate was now to be re-eligible. Had he remained ineligible a 2.d time, he should have preferred a longer term.

Doc.r M.cClurg moved [1] to strike out 7 years, and

[1] The probable object of this motion was merely to enforce the argument against the re-eligibility of the Executive magistrate by

insert "during good behavior." By striking out the words declaring him not re-eligible, he was put into a situation that would keep him dependent forever on the Legislature; and he conceived the independence of the Executive to be equally essential with that of the Judiciary department.

Mr. Gov.r Morris 2ded the motion. He expressed great pleasure in hearing it. This was the way to get a good Government. His fear that so valuable an ingredient would not be attained had led him to take the part he had done. He was indifferent how the Executive should be chosen, provided he held his place by this tenure.

Mr. Broome highly approved the motion. It obviated all his difficulties

Mr. Sherman considered such a tenure as by no means safe or admissible. As the Executive Magistrate is now re-eligible, he will be on good behavior as far as will be necessary. If he behaves well he will be continued; if otherwise, displaced, on a succeeding election.

Mr. Madison.[1] If it be essential to the preservation of liberty that the Legisl: Execut: & Judiciary powers be separate, it is essential to a maintenance of the separation, that they should be independent of

holding out a tenure during good behaviour as the alternate for keeping him independent of the legislature.—Note in Madison's handwriting.

[1] The view here taken of the subject was meant to aid in parrying the animadversions likely to fall on the motion of Dr. Mc Clurg, for whom J. M. had a particular regard. The Doc.r though possessing talents of the highest order was modest & unaccustomed to exert them in public debate.—Note in Madison's handwriting.

each other. The Executive could not be independent of the Legislure, if dependent on the pleasure of that branch for a re-appointment. Why was it determined that the Judges should not hold their places by such a tenure? Because they might be tempted to cultivate the Legislature, by an undue complaisance, and thus render the Legislature the virtual expositor, as well as the maker of the laws. In like manner a dependence of the Executive on the Legislature, would render it the Executor as well as the maker of laws; & then according to the observation of Montesquieu, tyrannical laws may be made that they may be executed in a tyrannical manner. There was an analogy between the Executive & Judiciary departments in several respects. The latter executed the laws in certain cases as the former did in others. The former expounded & applied them for certain purposes, as the latter did for others. The difference between them seemed to consist chiefly in two circumstances—1. the collective interest & security were much more in the power belonging to the Executive than to the Judiciary department. 2. in the administration of the former much greater latitude is left to opinion and discretion than in the administration of the latter. But if the 2d consideration proves that it will be more difficult to establish a rule sufficiently precise for trying the Execut: than the Judges, & forms an objection to the same tenure of office, both considerations prove that it might be more dangerous to suffer a Union between the Executive & Legisl: powers,

than between the Judiciary & Legislative powers. He conceived it to be absolutely necessary to a well constituted Republic that the two first sh.d be kept distinct & independent of each other. Whether the plan proposed by the motion was a proper one was another question, as it depended on the practicability of instituting a tribunal for impeachm.ts as certain & as adequate in the one case as in the other. On the other hand, respect for the mover entitled his proposition to a fair hearing & discussion, until a less objectionable expedient should be applied for guarding ag.st a dangerous union of the Legislative & Executive departments.

Col. Mason. This motion was made some time ago & negatived by a very large majority. He trusted that it w.d be again negatived. It w.d be impossible to define the misbehaviour in such a manner as to subject it to a proper trial; and perhaps still more impossible to compel so high an offender holding his office by such a tenure to submit to a trial. He considered an Executive during good behavior as a softer name only for an Executive for life. And that the next would be an easy step to hereditary Monarchy. If the motion should finally succeed, he might himself live to see such a Revolution. If he did not it was probable his children or grand children would. He trusted there were few men in that House who wished for it. No state he was sure had so far revolted from Republican principles as to have the least bias in its favor.

M.r Madison, was not apprehensive of being thought

to favor any step towards monarchy. The real object with him was to prevent its introduction. Experience had proved a tendency in our governments to throw all power into the Legislative vortex. The Executives of the States are in general little more than Cyphers; the legislatures omnipotent. If no effectual check be devised for restraining the instability & encroachments of the latter, a revolution of some kind or other would be inevitable. The preservation of Republican Gov.t therefore required some expedient for the purpose, but required evidently at the same time that in devising it, the genuine principles of that form should be kept in view.

Mr. Gov.r Morris was as little a friend to monarchy as any gentleman. He concurred in the opinion that the way to keep out monarchical Gov.t was to establish such a Repub. Gov.t as w.d make the people happy and prevent a desire of change.

Doc.r McClurg was not so much afraid of the shadow of monarchy as to be unwilling to approach it; nor so wedded to Republican Gov.t as not to be sensible of the tyrannies that had been & may be exercised under that form. It was an essential object with him to make the Executive independent of the Legislature; and the only mode left for effecting it, after the vote destroying his ineligibility a second time, was to appoint him during good behavior.

On the question for inserting "during good behavior" in place of '7 years (with a re-eligibility)' it passed in the negative,

Mas. no. Ct. no. N. J. ay. Pa. ay. Del. ay. Md. no. Va. ay. N. C. no. S. C. no. Geo. no.[1]

On the motion "to strike out seven years" it passed in the negative,

Mas. ay. Ct. no. N. J. no. Pa. ay. Del. ay. Md. no. Va. no. N. C. ay. S. C. no. Geo. no.[2]

It was now unanimously agreed that the vote which had struck out the words "to be ineligible a second time" should be reconsidered to-morrow.

Adj.d

WEDNESDAY JULY 18. IN CONVENTION.

On motion of Mr. L. Martin to fix tomorrow for reconsidering the vote concerning "eligibility of the Exec.tive a 2.d time" it passed in the affirmative.

Mas. ay. Con.t ay. N. J. absent. Pa. ay. Del.

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[1] (This vote is not considered as any certain index of opinion, as a number in the affirmative probably had it chiefly in view to alarm those attached to a dependence of the Executive on the Legislature, & thereby facilitate some final arrangement of a contrary tendency. The avowed friends of an Executive, during good behaviour were not more than three or four, nor is it certain they would finally have adhered to such a tenure, an independence of the three great departments of each other, as far as possible, and the responsibility of all to the will of the community seemed to be generally admitted as the true basis of a well constructed government.)—Note in Madison's hand, except from the words "nor is it certain" &c. which is in the hand of his wife's nephew, John C. Payne

[2] (There was no debate on this motion. The apparent object of many in the affirmative was to secure the re-eligibility by shortening the term, and of many in the negative to embarrass the plan of referring the appointment and dependence of the Executive to the Legislature.)—Note in Madison's hand.

ay. M^d^ ay. V^a^ ay. N. C. ay. S. C. ay. Geo. absent.

The residue of the Resol. 9. concerning the Executive was postp^d^ till tomorrow.

Resol. 10. that Executive sh^l^ have a right to negative legislative acts not afterwards passed by $\frac{2}{3}$ of each branch, agreed to nem. con.

Resol. 11. "that a Nat^l^ Judiciary shall be estab^d^ to consist of one supreme tribunal," ag^d^ to nem. con.

"The judges of which to be appoint^d^ by the 2^d^ branch of the Nat^l^ Legislature,"

Mr Ghorum, w^d^ prefer an appointment by the 2^d^ branch to an appointm^t^ by the whole Legislature; but he thought even that branch too numerous, and too little personally responsible, to ensure a good choice. He suggested that the Judges be appointed by the Execu^ve^ with the advice & consent of the 2^d^ branch, in the mode prescribed by the constitution of Mas^ts^ This mode had been long practised in that country, & was found to answer perfectly well.

Mr Wilson, still w^d^ prefer an appointm^t^ by the Executive; but if that could not be attained, w^d^ prefer in the next place, the mode suggested by Mr Ghorum. He thought it his duty however to move in the first instance "that the Judges be appointed by the Executive." Mr Govr Morris 2^ded^ the motion.

Mr L. Martin was strenuous for an app^t^ by the 2^d^ branch. Being taken from all the States it w^d^ be best informed of characters & most capable of making a fit choice.

Mr Sherman concurred in the observations of M^r^

Martin, adding that the Judges ought to be diffused, which would be more likely to be attended to by the 2d branch, than by the Executive.

Mr Mason. The mode of appointing the Judges may depend in some degree on the mode of trying impeachments of the Executive. If the Judges were to form a tribunal for that purpose, they surely ought not to be appointed by the Executive. There were insuperable objections besides agst referring the appointment to the Executive. He mentioned as one, that as the Seat of Govt must be in some one State, and as the Executive would remain in office for a considerable time, for 4. 5. or 6 years at least, he would insensibly form local & personal attachments within the particular State that would deprive equal merit elsewhere, of an equal chance of promotion.

Mr Ghorum. As the Executive will be responsible in point of character at least, for a judicious and faithful discharge of his trust, he will be careful to look through all the States for proper characters. The Senators will be as likely to form their attachments at the seat of Govt where they reside, as the Executive. If they cannot get the man of the particular State to which they may respectively belong, they will be indifferent to the rest. Public bodies feel no personal responsibility, and give full play to intrigue & cabal. Rh. Island is a full illustration of the insensibility to character produced by a participation of numbers in dishonorable measures, and of the length to which a Public body may carry wickedness & cabal.

Mr Govr Morris supposed it would be improper for an impeachm^t of the Executive to be tried before the Judges. The latter would in such case be drawn into intrigues with the Legislature and an impartial trial would be frustrated. As they w^d be much about the Seat of Gov^t they might even be previously consulted & arrangements might be made for a prosecution of the Executive. He thought therefore that no argument could be drawn from the probability of such a plan of impeachments ag^st the motion before the House.

Mr Madison suggested that the Judges might be appointed by the Executive, with the concurrence of $\frac{1}{3}$ at least, of the 2^d branch. This would unite the advantage of responsibility in the Executive with the security afforded in the 2^d branch ag^st any incautious or corrupt nomination by the Executive.

Mr Sherman, was clearly for an election by the Senate. It would be composed of men nearly equal to the Executive, and would of course have on the whole more wisdom. They would bring into their deliberations a more diffusive knowledge of characters. It would be less easy for candidates to intrigue with them, than with the Executive Magistrate. For these reasons he thought there would be a better security for a proper choice in the Senate than in the Executive.

Mr Randolph. It is true that when the app^t of the Judges was vested in the 2^d branch an equality of votes had not been given to it. Yet he had rather leave the appointm^t there than give it to the Executive. He thought the advantage of personal

responsibility might be gained in the Senate by requiring the respective votes of the members to be entered on the Journal. He thought too that the hope of receiving app^{ts} would be more diffusive if they depended on the Senate, the members of which w^{d} be diffusively known, than if they depended on a single man who could not be personally known to a very great extent; and consequently that opposition to the System, would be so far weakened.

Mr Bedford thought there were solid reasons agst leaving the appointment to the Executive. He must trust more to information than the Senate. It would put it in his power to gain over the larger States, by gratifying them with a preference of their Citizens. The responsibility of the Executive so much talked of was chimerical. He could not be punished for mistakes.

Mr Ghorum remarked that the Senate could have no better information than the Executive. They must like him, trust to information from the members belonging to the particular State where the candidate resided. The Executive would certainly be more answerable for a good appointment, as the whole blame of a bad one would fall on him alone. He did not mean that he would be answerable under any other penalty than that of public censure, which with honorable minds was a sufficient one.

On the question for referring the appointment of the Judges to the Executive, instead of the 2^{d} branch

Mas. ay. Con^{t} no. P^{a} ay. Del. no. M^{d} no. V^{a} no. N. C. no. S. C. no. Geo. absent.

Mr. Ghorum moved "that the Judges be nominated and appointed by the Executive, by & with the advice & consent of the 2d. branch & every such nomination shall be made at least —— days prior to such appointment." This mode he said had been ratified by the experience of a 140 years in Massachusts. If the appt. should be left to either branch of the Legislature, it will be a mere piece of jobbing.

Mr. Govr. Morris 2ded & supported the motion.

Mr. Sherman thought it less objectionable than an absolute appointment by the Executive; but disliked it, as too much fettering the Senate.

Question on Mr. Ghorum's motion

Mas. ay. Contt. no. Pa. ay. Del. no. Md. ay. Va. ay. N. C. no. S. C. no. Geo. absent.

Mr. Madison moved that the Judges should be nominated by the Executive & such nomination should become an appointment if not disagreed to within —— days by ⅔ of the 2d. branch.

Mr. Govr. Morris 2ded the motion. By comon consent the consideration of it was postponed till tomorrow.

"To hold their offices during good behavior" & "to receive fixed salaries" agreed to nem: con:.

"In which (salaries of Judges) no increase or diminution shall be made so as to affect the persons at the time in office."

Mr. Govr. Morris moved to strike out "or increase." He thought the Legislature ought to be at liberty to increase salaries as circumstances might require, and that this would not create any improper dependence in the Judges.

Doc^r Franklin was in favor of the motion. Money may not only become plentier, but the business of the department may increase as the Country becomes more populous.

Mr Madison. The dependence will be less if the *increase alone* should be permitted, but it will be improper even so far to permit a dependence. Whenever an increase is wished by the Judges, or may be in agitation in the legislature, an undue complaisance in the former may be felt towards the latter. If at such a crisis there should be in Court suits to which leading members of the Legislature may be parties, the Judges will be in a situation which ought not to be suffered, if it can be prevented. The variations in the value of money, may be guarded ag^st by taking for a standard wheat or some other thing of permanent value. The increase of business will be provided for by an increase of the number who are to do it. An increase of salaries may easily be so contrived as not to affect persons in office.

Mr Govr Morris. The value of money may not only alter but the State of Society may alter. In this event the same quantity of wheat, the same value would not be the same compensation. The Amount of salaries must always be regulated by the manners & the style of living in a Country. The increase of business can not be provided for in the supreme tribunal in the way that has been mentioned. All the business of a certain description whether more or less must be done in that single tribunal. Additional labor alone in the Judges can provide for

additional business. Additional compensation therefore ought not to be prohibited.

On the question for striking out "or increase"

Mas. ay. Con^t ay. P^a ay. Del. ay. M^d ay. V^a no. N. C. no. S. C. ay. Geo. absent

The whole clause as amended was then agreed to nem: con:

12. Resol: "that Nat^l Legislature be empowered to appoint inferior tribunals"

Mr Butler could see no necessity for such tribunals. The State Tribunals might do the business.

Mr L. Martin concurred. They will create jealousies & oppositions in the State tribunals, with the jurisdiction of which they will interfere.

Mr Ghorum. There are in the States already federal Courts with jurisdiction for trial of piracies &c. committed on the Seas. No complaints have been made by the States or the Courts of the States. Inferior tribunals are essential to render the authority of the Nat^l Legislature effectual.

Mr Randolph observed that the Courts of the States can not be trusted with the administration of the National laws. The objects of jurisdiction are such as will often place the General & local policy at variance.

Mr Govr Morris urged also the necessity of such a provision.

Mr Sherman was willing to give the power to the Legislature but wished them to make use of the State Tribunals whenever it could be done with safety to the general interest.

Col. Mason thought many circumstances might

arise not now to be foreseen, which might render such a power absolutely necessary.

On question for agreeing to 12. Resol: empowering the National Legislature to appoint "inferior tribunals," Ag.d to nem. con.

"Impeachments of national officers," were struck out on motion for the purpose.

13. Resol: "The jurisdiction of the Nat.l Judiciary." Several criticisms having been made on the definition; it was proposed by M.r Madison so to alter it as to read thus—"that the jurisdiction shall extend to all cases arising under the Nat.l laws; And to such other questions as may involve the Nat.l peace & harmony," which was agreed to, nem. con.

Resol. 14. providing for the admission of new States agreed to, nem. con.

Resol. 15. that provision ought to be made for the continuance of Cong.s &c. & for the completion of their engagements."

M.r Gov.r Morris thought the assumption of their engagements might as well be omitted; and that Cong.s ought not to be continued till all the States should adopt the reform; since it may become expedient to give effect to it whenever a certain number of States shall adopt it.

M.r Madison the clause can mean nothing more than that provision ought to be made for preventing an interregnum; which must exist in the interval between the adoption of the New Gov.t and the commencement of its operation, if the old Gov.t should cease on the first of these events.

Mr Wilson did not entirely approve of the manner in which the clause relating to the engagements of Cong^s was expressed; but he thought some provision on the subject would be proper in order to prevent any suspicion that the obligations of the Confederacy might be dissolved along with the Govern^t under which they were contracted.

On the question on the 1st part—relating to the continuance of Cong^s

Mas. no. Con^t no. P^a no. Del. no. M^d no. V^a ay. N. C. ay. S. C.[1] ay. Geo. no.

The 2^d part as to completion of their engagements, disag^d to, nem. con.

Resol. 16. "That a Republican Constitution & its existing laws ought to be guaranteed to each State by the U. States."

Mr Govr Morris, thought the Resol: very objectionable. He should be very unwilling that such laws as exist in R. Island should be guaranteed.

Mr Wilson. The object is merely to secure the States ag^st dangerous commotions, insurrections and rebellions.

Col. Mason. If the Genl Gov^t should have no right to suppress rebellions ag^st particular States, it will be in a bad situation indeed. As Rebellions ag^st itself originate in & ag^st individual States, it must remain a passive Spectator of its own subversion.

Mr Randolph. The Resol^n has 2. objects. 1. to secure a Republican Government. 2. to suppress

[1] In the printed Journal, S. Carolina—no. Note in Madison's hand.

domestic commotions. He urged the necessity of both these provisions.

Mr. Madison moved to substitute "that the Constitutional authority of the States shall be guaranteed to them respectively agst. domestic as well as foreign violence."

Docr. McClurg seconded the motion.

Mr. Houston was afraid of perpetuating the existing Constitutions of the States. That of Georgia was a very bad one, and he hoped would be revised & amended. It may also be difficult for the Genl. Govt. to decide between contending parties each of which claim the sanction of the Constitution.

Mr. L. Martin was for leaving the States to suppress Rebellions themselves.

Mr. Ghorum thought it strange that a Rebellion should be known to exist in the Empire, and the Genl. Govt. shd. be restrained from interposing to subdue it. At this rate an enterprising Citizen might erect the standard of Monarchy in a particular State, might gather together partizans from all quarters, might extend his views from State to State, and threaten to establish a tyranny over the whole & the Genl. Govt. be compelled to remain an inactive witness of its own destruction. With regard to different parties in a State; as long as they confine their disputes to words, they will be harmless to the Genl. Govt. & to each other. If they appeal to the sword, it will then be necessary for the Genl. Govt., however difficult it may be to decide on the merits of their contest, to interpose & put an end to it.

Mr. Carrol. Some such provision is essential. Every State ought to wish for it. It has been doubted whether it is a casus federis at present. And no room ought to be left for such a doubt hereafter.

Mr. Randolph moved to add as an amendt. to the motion; "and that no State be at liberty to form any other than a Republican Govt." Mr. Madison seconded the motion.

Mr. Rutlidge thought it unnecessary to insert any guarantee. No doubt could be entertained but that Congs. had the authority if they had the means to co-operate with any State in subduing a rebellion. It was & would be involved in the nature of the thing.

Mr. Wilson moved as a better expression of the idea, "that a Republican form of Governmt. shall be guaranteed to each State & that each State shall be protected agst. foreign & domestic violence.

This seeming to be well received, Mr. Madison & Mr. Randolph withdrew their propositions & on the Question for agreeing to Mr. Wilson's motion, it passed nem. con.

Adjd.

END OF VOL. III.

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